



CITY OF LODI COUNCIL COMMUNICATION

AGENDA TITLE: Receive and Review the Draft Fiscal Year 2009/2010 Financial Plan and Budget

MEETING DATE: May 20, 2009

PREPARED BY: City Manager

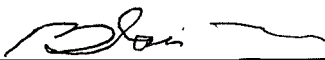
RECOMMENDED ACTION: Receive and review the Draft Fiscal Year 2009-2010 Financial Plan and Budget.

BACKGROUND INFORMATION: With this communication, the Draft Fiscal Year (FY) 2009/10 Financial Plan and Budget is hereby provided to the City Council.

The General Fund Budget for FY 2009/10 is balanced without the use of reserves. However, it is expected that expenditures incurred during the current FY 08/09 will exceed revenues and General Fund reserves will be drawn on.

Improvements have been made to the budget document itself. Summaries of full department budgets are provided vs. a collection of division budgets. Narratives are clearer and more concise. Additional supplemental information is included. This budget introduces the use of footnotes to explain variances and key items.

FISCAL IMPACT: The draft 2009-10 budget provides an expenditure plan for all funds. The All Funds Budget is \$171,592,000, a decrease of \$14 million, or a 7 ½ % from the previous year, and a two-year decline of approximately \$42.1 million. The General Fund Budget is \$39,870,901, **\$2.4 million less than the previous year and \$5.8 million less than two years ago.**


Blair King, City Manager

APPROVED: 
Blair King, City Manager

FY 2009/10 Budget



Presentation to City Council

May 20, 2009

FY 2009/10 Budget



"May you live in interesting times."

– Chinese proverb

Extraordinarily difficult economic conditions

Tough times never last

Tough people do

FY 2009/10 Budget



FY 09/10 at a glance

- Difficult Fiscal Year ahead
- General Fund balanced with revenues and expenses
- FY 2008/09 expenditures will exceed revenues – reserves declining
- Electric Utility is healthier
- Wastewater Fund at a crossroads
- \$800,000 savings from service credit program
- Employee contributions help

FY 2009/10 Budget



At a glance

- Proportionate relationships generally same
- Seven percent reduction in workforce
- Changes for Community Development
- Impact of federal stimulus funds unknown
- State of California is a hindrance
- Capital expenditures lacking

(cont.)

FY 2009/10 Budget



At a glance

- Funds for downtown maintenance
- Funds for street tree maintenance
- Percent of TOT (19%) for LCVB
- Coverage at the Animal Shelter
- Lodi CARE funding increased by \$20,000

FY 2009/10 Budget



Recession No. 33

These are extraordinary financial times.

FY 2009/10 Budget



Unemployment rates in March

Lodi	12.5%
San Joaquin County	16.4%
Stockton	19.7%
California	11.2%

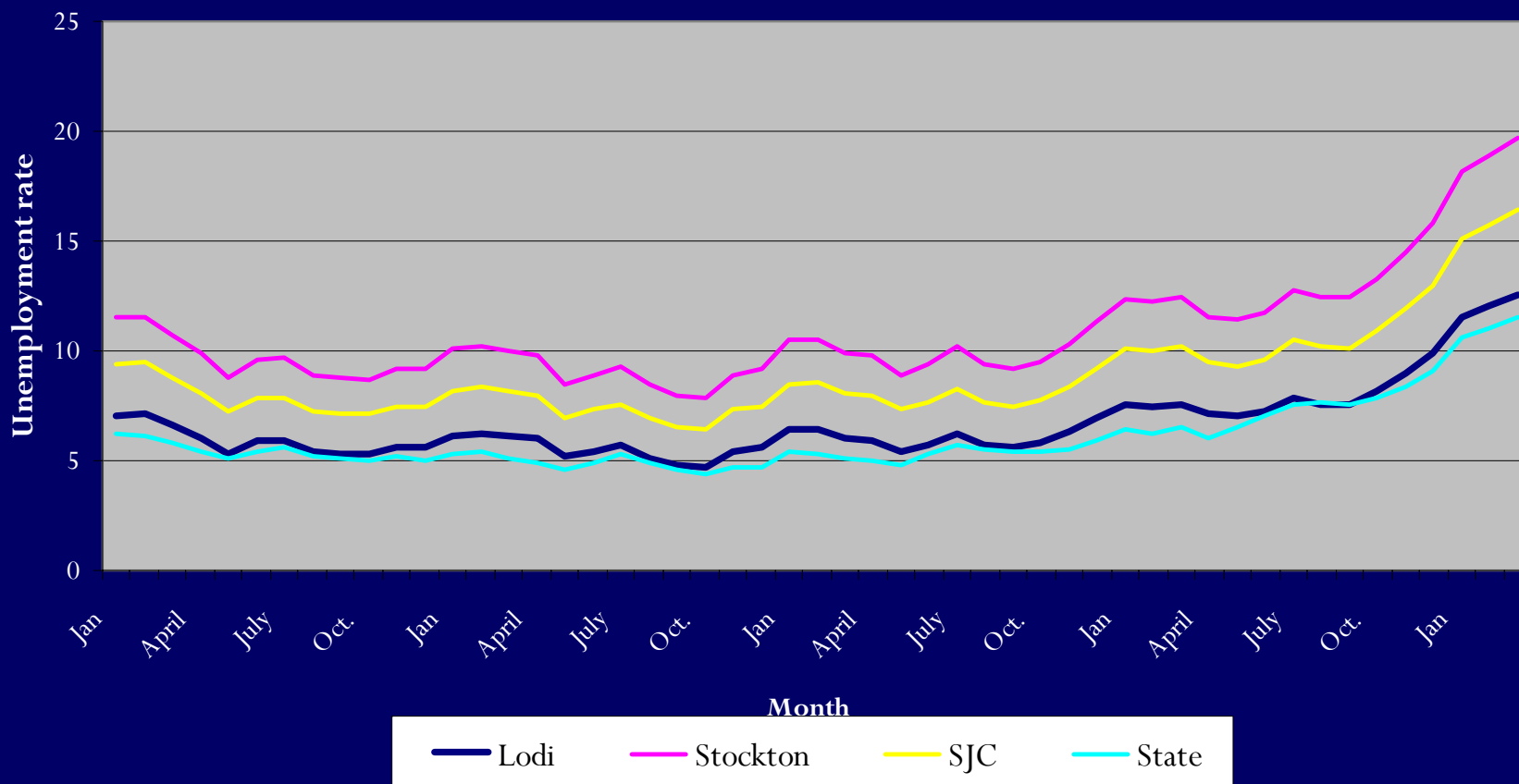
50,800 unemployed people looking for work in San Joaquin County

Source: California Economic Development Department, March 2009 figures

FY 2009/10 Budget



Unemployment rates, Jan. 2005-March 2009



FY 2009/10 Budget

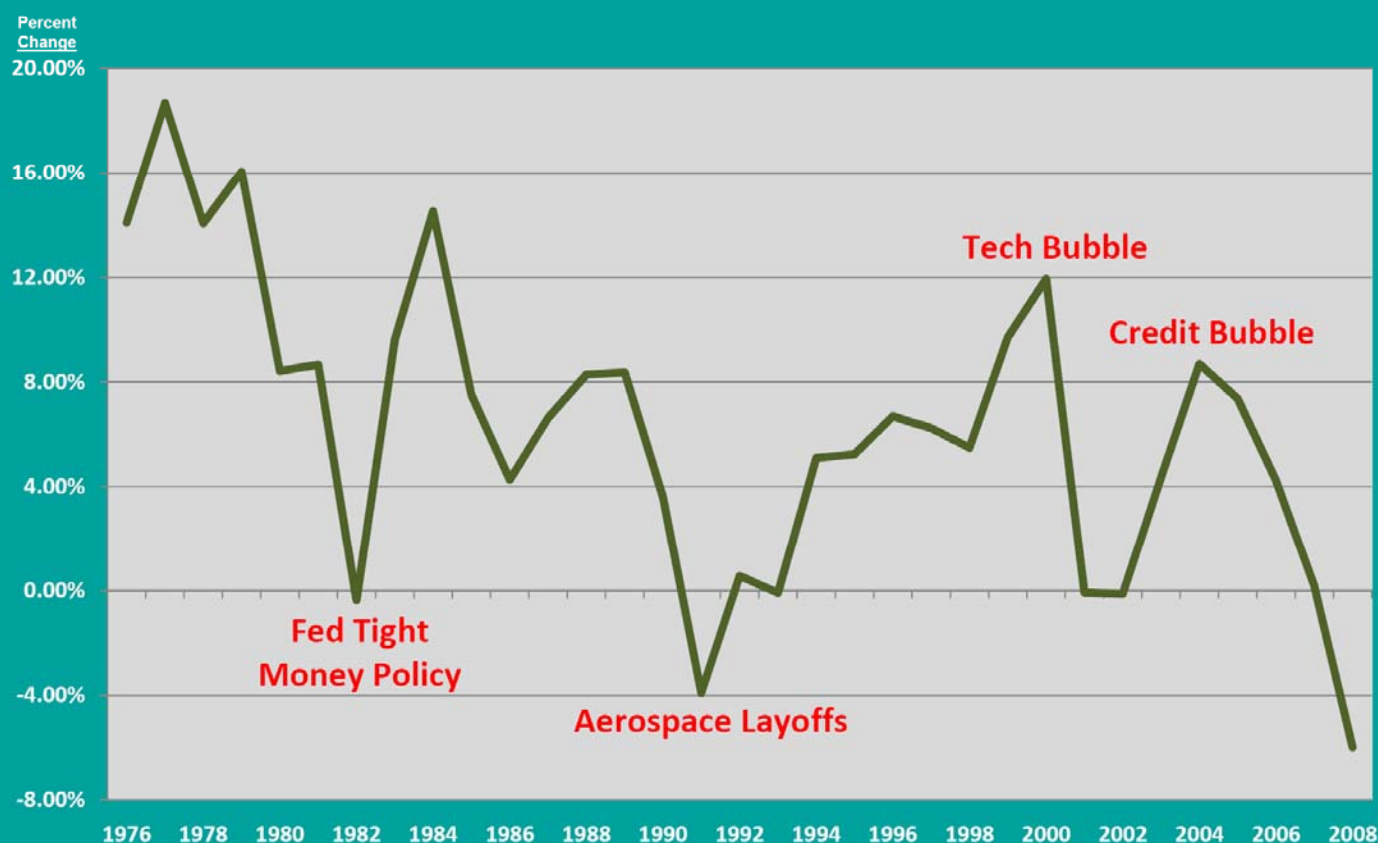


16.8% year-over-year decline for fourth
quarter of calendar year 2008

FY 2009/10 Budget

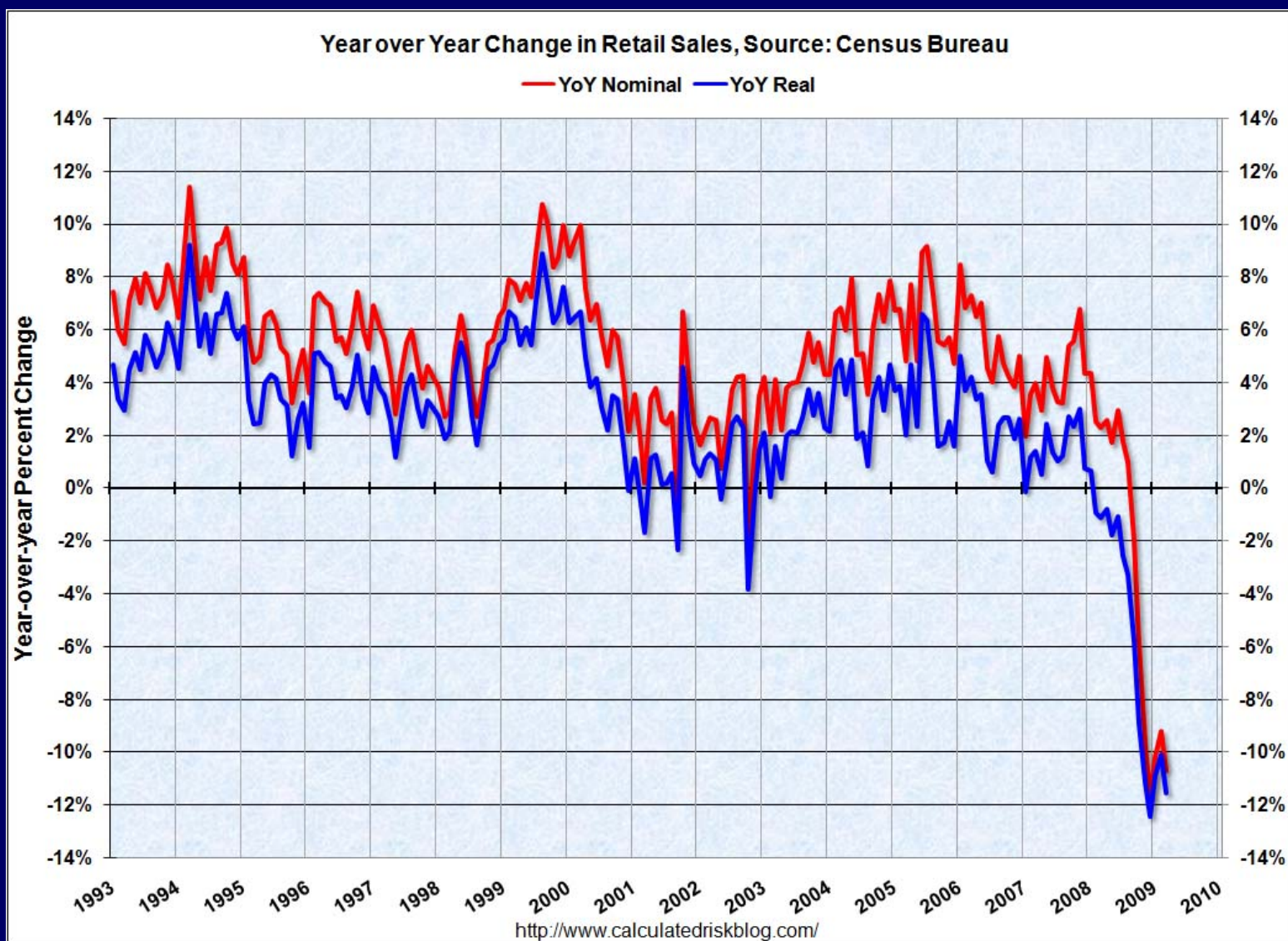


CALIFORNIA SALES TAX YEAR OVER YEAR PERCENT CHANGE

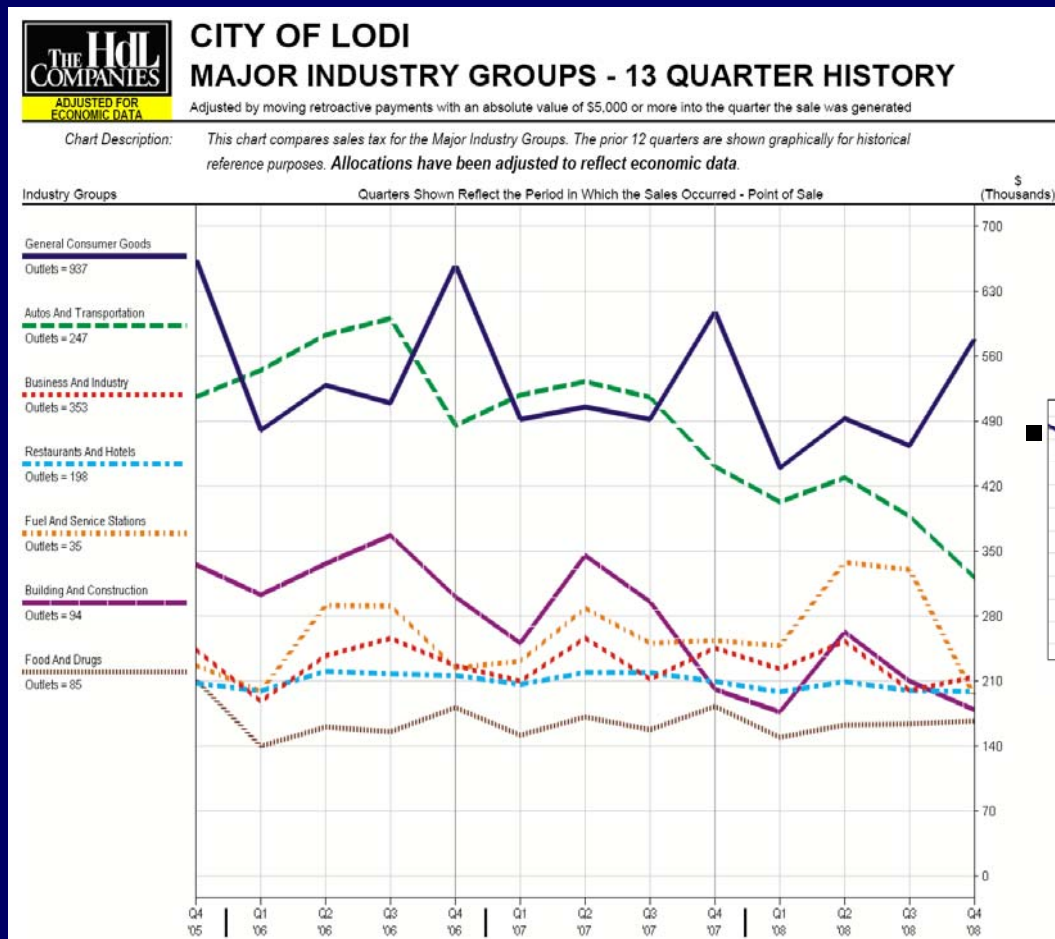


Source: State Board of Equalization, the HdL Companies

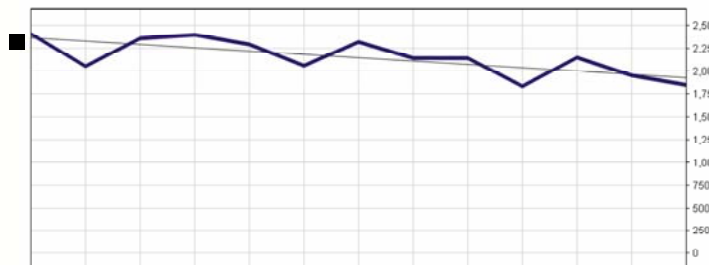
FY 2009/10 Budget



FY 2009/10 Budget



**13 quarter trend:
Down 18.3 percent**



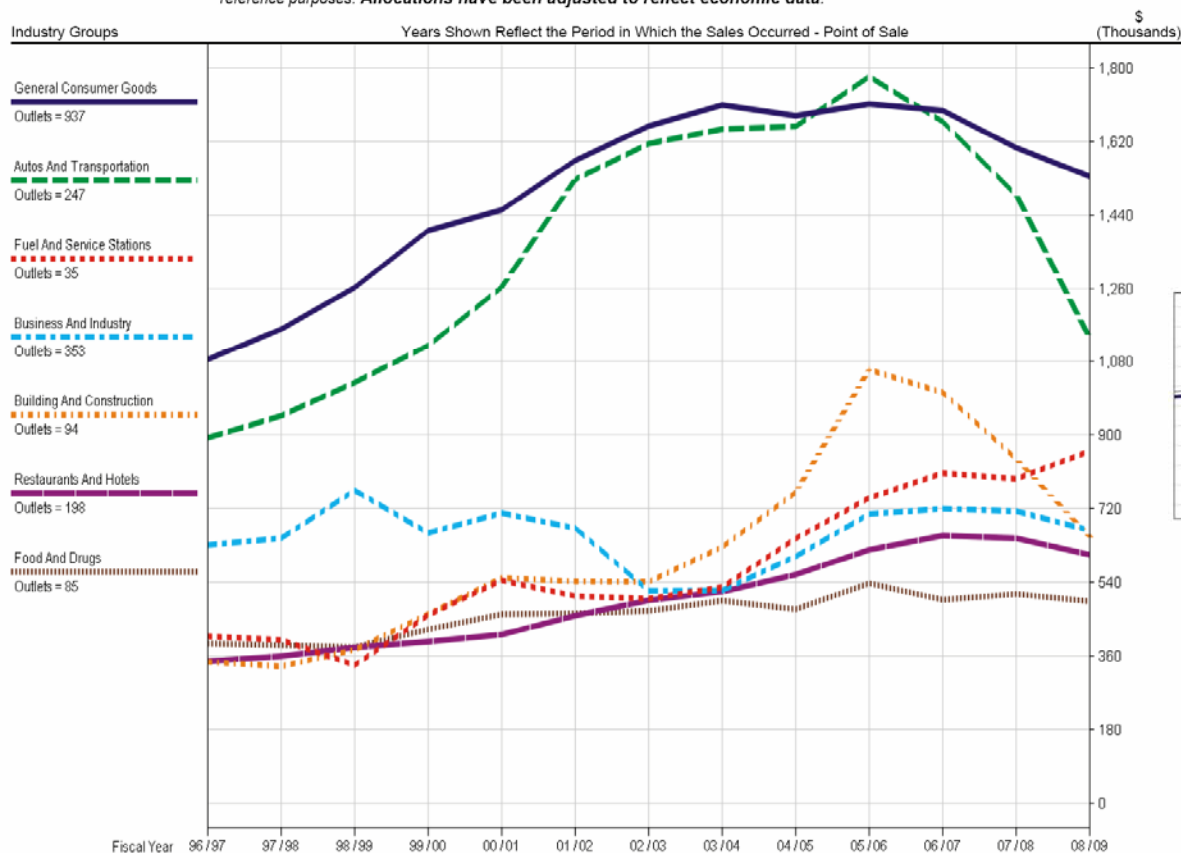
FY 2009/10 Budget



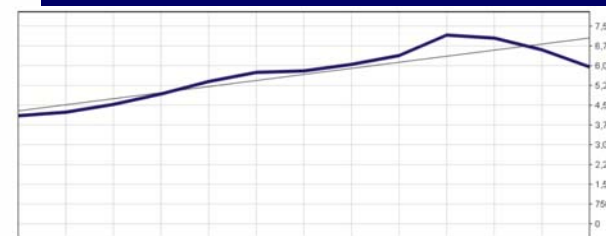
CITY OF LODI MAJOR INDUSTRY GROUPS - 13 YEAR HISTORY

Adjusted by moving retroactive payments with an absolute value of \$5,000 or more into the quarter the sale was generated

Chart Description: This chart compares sales tax for the Major Industry Groups. The prior 12 fiscal years are shown graphically for historical reference purposes. *Allocations have been adjusted to reflect economic data.*



Sales tax revenue
nearly at 2001 levels



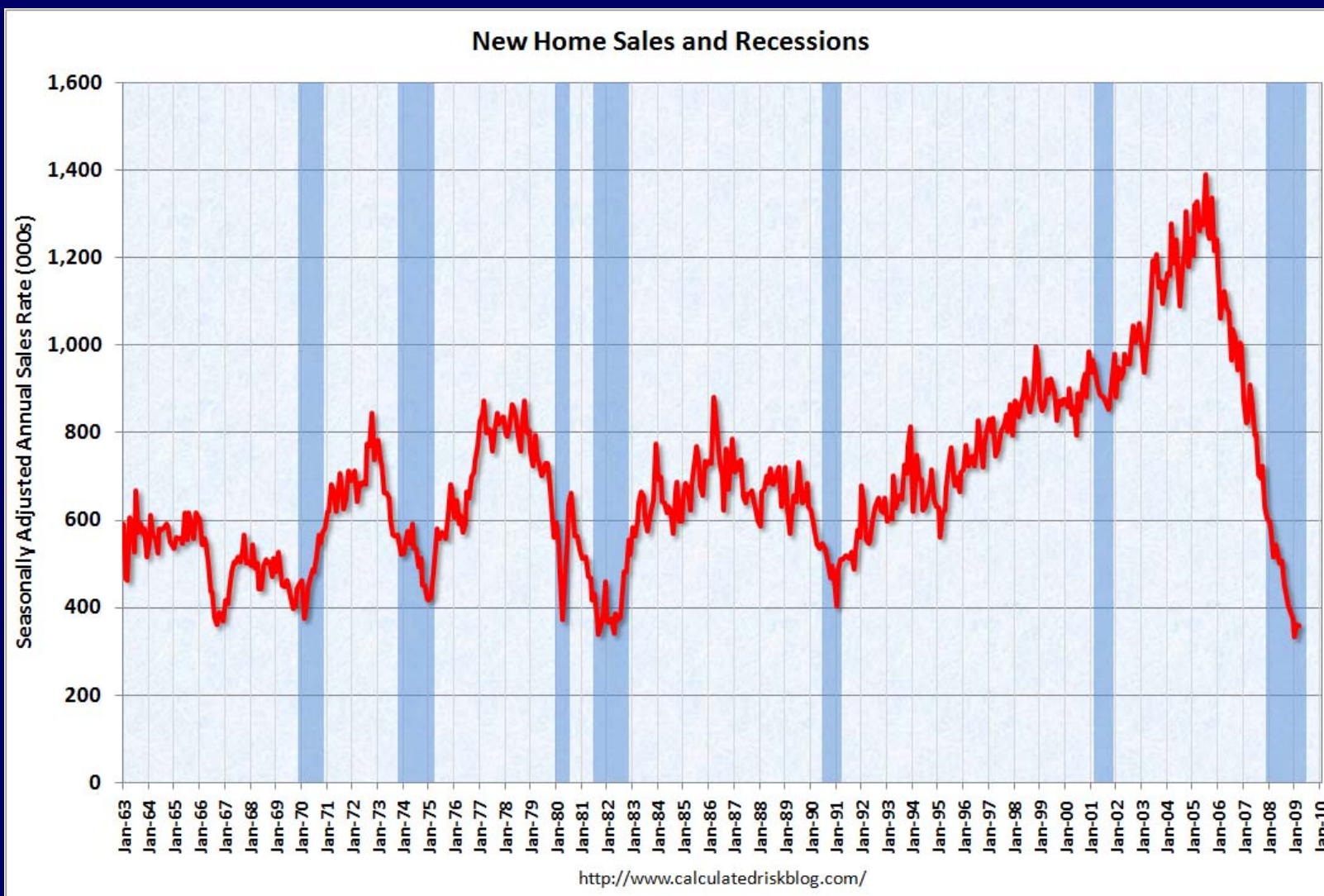
FY 2009/10 Budget



Down \$640,800 year-to-year in property tax revenue

Value assessments reverting to 2003 or earlier

FY 2009/10 Budget



FY 2009/10 Budget



- Economic plunge
- Housing market/mortgage crisis
- Credit crunch
- Chronic State budget problems

FY 2009/10 Budget



Annual amount diverted:

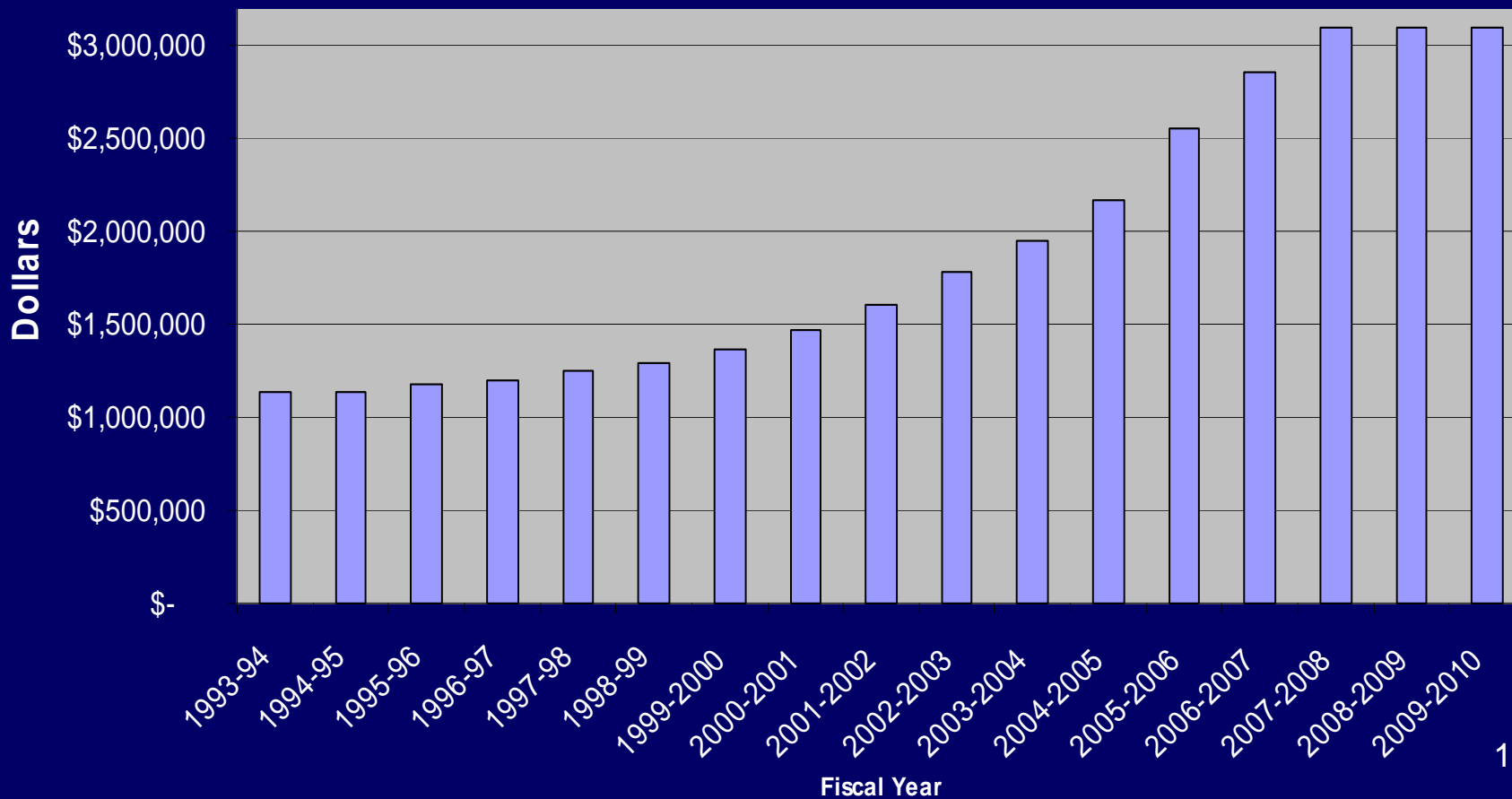
\$3,095,166

FY 2009/10 Budget



Educational Revenue Augmentation Fund

Funds shifted to schools from City of Lodi



FY 2009/10 Budget

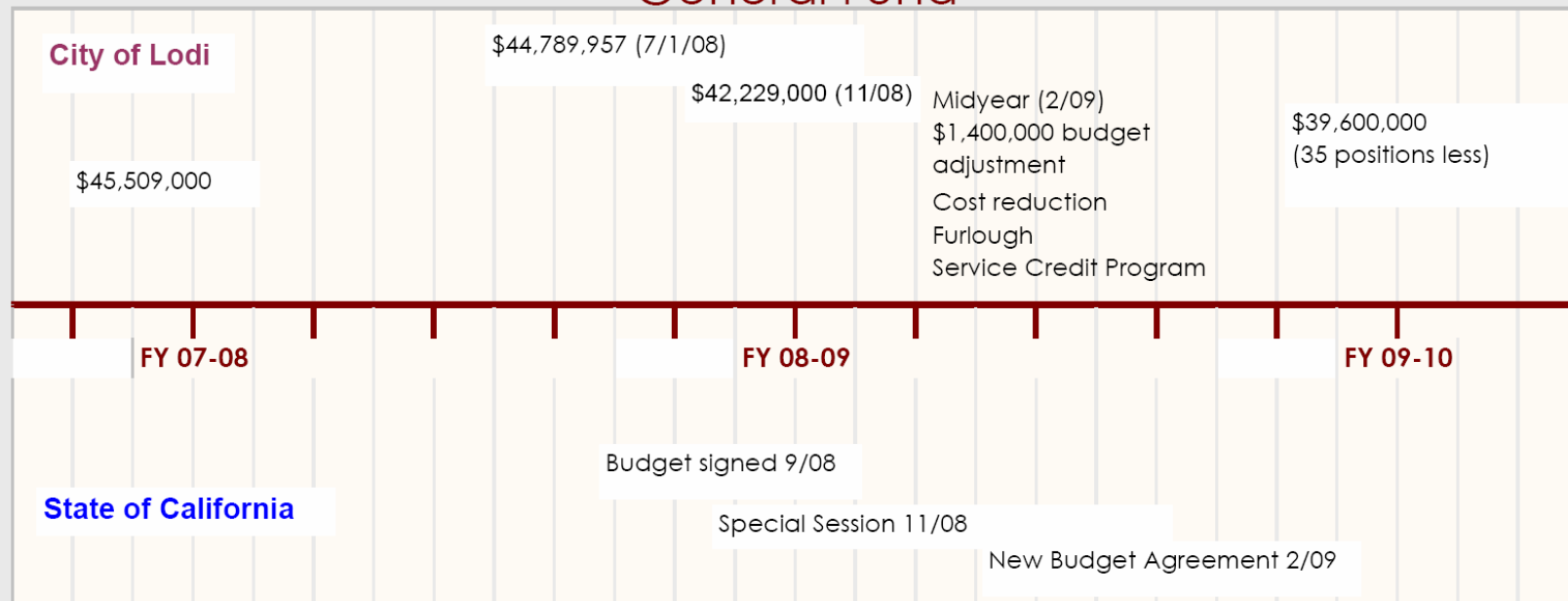


City Response

FY 2009/10 Budget



Fiscal Timeline General Fund



FY 2009/10 Budget

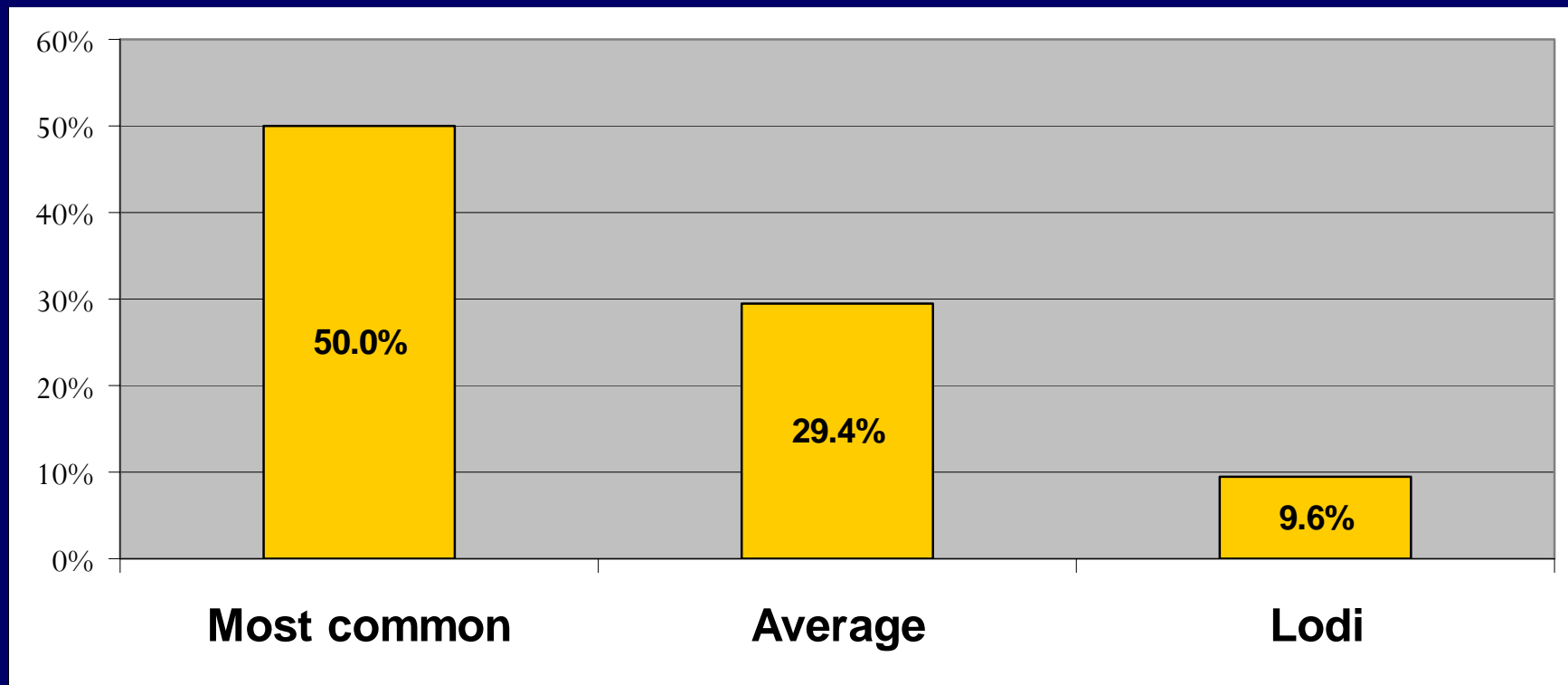


Fiscal sustainability

FY 2009/10 Budget



California cities' GF reserve levels

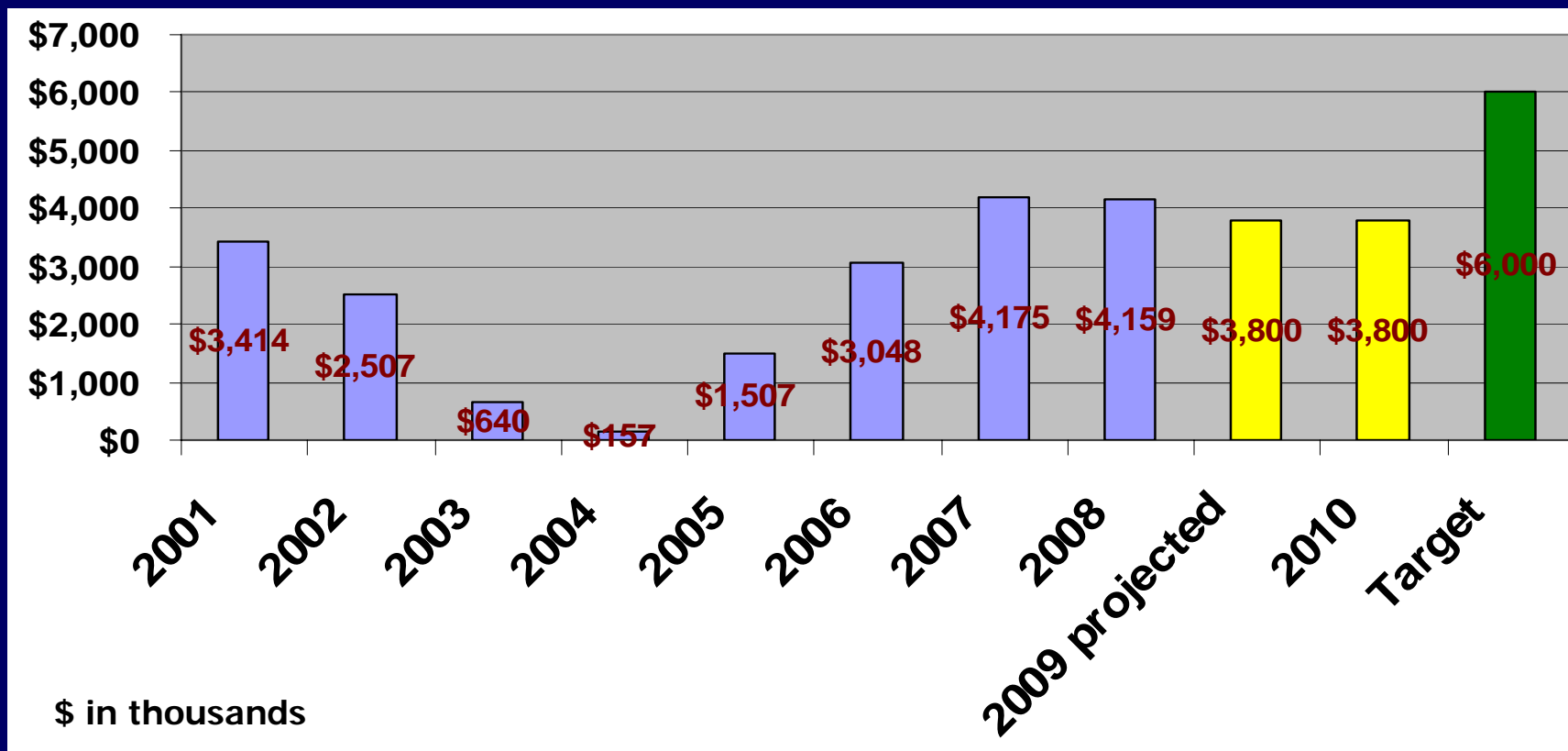


Source: Fiscal officers of California list serve poll (72 cities), March 2009

FY 2009/10 Budget



General Fund reserve history



FY 2009/10 Budget



Approach to the Budget

FY 2009/10 Budget



General Fund reserve

City policy: *Minimum* unrestricted General Fund reserve should equal 15% – \$6 million for FY 2009/10

- Anticipated June 30, 2008 figure was \$4.5 million (11.3%), actual was \$4.2 million (10.5%).
- Projected June 30, 2009: \$3.8 million (9.6%).
- City Council votes for June 30, 2010 reserve goal:
 - \$3.8 million – 3
 - \$4.2 million – 2

FY 2009/10 Budget



General Fund spending

Question to City Council:

Should % of General Fund expenditures per department remain the same in 2009/10 as it was in 2008/09?

Yes	4
No	0
Unsure	1

FY 2009/10 Budget



Department	2008/09 Ratio	2009/10 Proposed Budget	2009/10 Ratio	Change 2008/09 vs. 2009/10	Ratio Change
City Clerk	1.35%	\$548,540	1.38%	(\$29,271)	0.03%
City Manager	1.39%	\$538,610	1.35%	(\$9,404)	-0.04%
City Attorney	1.22%	\$462,890	1.16%	(\$40,252)	-0.06%
Internal Services Department	9.44%	\$3,667,493	9.20%	(\$71,060)	-0.24%
Non-Departmental	4.50%	\$2,241,933	5.62%	\$21,893	1.12%
Economic Development	1.24%	\$477,627	1.20%	(\$43,865)	-0.04%
Police	36.84%	\$14,955,058	37.51%	(\$766,418)	0.67%
Fire	21.99%	\$8,696,662	21.81%	(\$803,812)	-0.18%
Public Works	5.82%	\$1,962,141	4.92%	(\$280,284)	-0.90%
Parks	5.74%	\$2,251,918	5.65%	(\$144,189)	-0.09%
Library	3.45%	\$1,352,031	3.39%	(\$111,043)	-0.06%
Community Development	0.54%	\$213,100	0.53%	(\$17,503)	-0.01%
Community Center	2.98%	\$1,166,095	2.92%	(\$95,777)	-0.05%
Recreation	1.26%	\$494,132	1.24%	(\$40,583)	-0.02%
Streets MOE	2.24%	\$842,671	2.11%	(\$108,267)	-0.13%
Total	100.00%	\$39,870,901	100.00%	(\$2,539,835)	

FY 2009/10 Budget



Citywide staffing

426 funded positions

- 460 authorized in FY 2008/09
- 459 authorized in FY 2009/10
- 33 unfunded positions

Reductions will grow

Nine accepted enhanced service credit

FY 2009/10 Budget



Bargaining Group agreements

Group

Tent. Agmt.?

Police Dispatchers

Yes

(LPDA agreed to furloughs, waive holiday leave cash out)

Police Officers

Yes

(POAL agreed to furloughs, waive uniform allowance, waive comp time cash out, waive holiday leave cash out)

Police Mid-Managers

Pending

FY 2009/10 Budget



Group

Tent. Agmt.?

Firefighters

Pending

(Projecting four layoffs without agreement)

Fire Mid-Managers

Pending

(Projecting one layoff without agreement)

FY 2009/10 Budget



Group

Tent. Agmt.?

Mid-Managers

Yes

(Extended FY 08/09 contributions through FY 09/10)

General Services

Pending

(Five layoffs without agreement)

Maint. & Operators

Pending

(Five layoffs without agreement)

IBEW and unrepresented (Executive Managers)
previously agreed to contributions through FY
2009/10

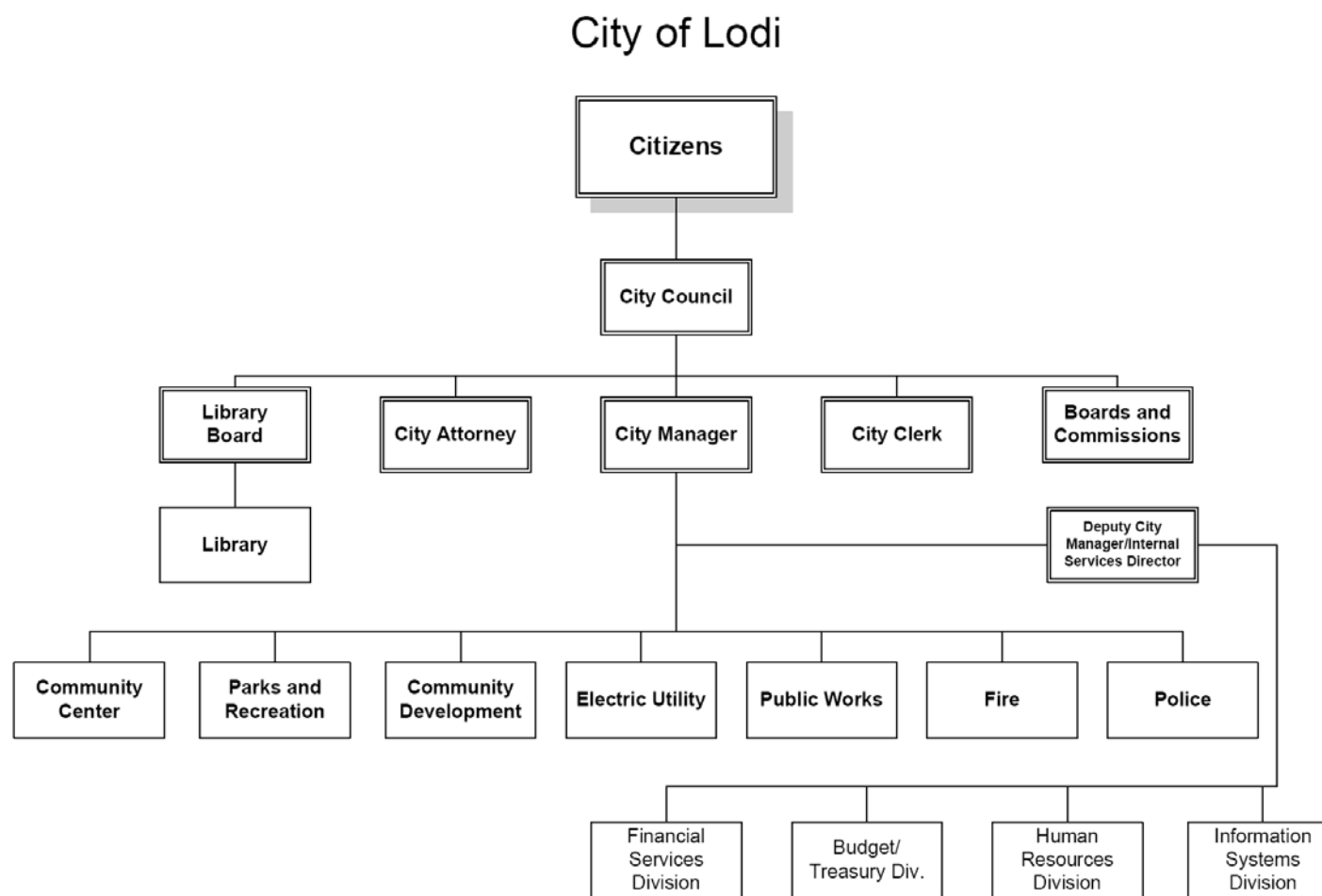
FY 2009/10 Budget



Layoffs (2)

- One in Community Improvement
- Retreat rights of Senior Planner

FY 2009/10 Budget



FY 2009/10 Budget



All funds revenue

Overall decrease of \$15.2 million, or 8.1%

FY 2009/10 Budget



All funds expenditures

FY 2009/10 Budget



All funds expenditures

Budget Fund May 13	2008-09 Budget	2009-10 Budget	\$ Change	% Change
General Fund Total	42,709,952	39,870,901	(2,839,051)	-6.65%
Library Fund Total	2,826,159	1,419,910	(1,406,249)	-49.76%
Street Fund Total	8,424,384	3,120,826	(5,303,558)	-62.95%
Transportation Dev Act Fund Total	97,850	50,000	(47,850)	-48.90%
CDBG Fund Total	461,105	751,256	290,151	62.93%
Police Special Revenue Fund Total	120,741	100,000	(20,741)	-17.18%
Capital Outlay Fund Total	3,645,173	467,760	(3,177,413)	-87.17%
Equipment Fund Total	130,999	65,000	(65,999)	-50.38%
Vehicle Replacement Fund Total	696,098	350,000	(346,098)	-49.72%
Debt Service Fund Total	1,770,980	1,676,931	(94,049)	-5.31%
Water Fund Total	15,523,008	12,500,365	(3,022,643)	-19.47%
Wastewater Fund Total	30,497,223	16,230,611	(14,266,612)	-46.78%
Electric Fund Total	73,091,069	72,634,564	(456,505)	-0.62%
Transit Fund Total	7,338,156	4,070,445	(3,267,711)	-44.53%
Comm Dev Special Rev Fund Total	1,628,438	1,210,238	(418,200)	-25.68%
Benefits Fund Total	7,453,525	6,909,955	(543,570)	-7.29%
Self Insurance Fund Total	4,011,630	2,340,000	(1,671,630)	-41.67%
Trust & Agency Fund Total	239,386	388,064	148,678	62.11%
Fire Special Revenue Fund Total	480,152	480,151	-	0.00%
Fleet Services Total	1,947,553	1,929,720	(17,833)	-0.92%
Community Center Total	1,938,531	1,859,673	(78,858)	-4.07%
Parks & Recreation Total	1,763,730	1,844,318	80,588	4.57%
Grand Total	206,795,842	170,270,688	(36,525,154)	-17.66%

FY 2009/10 Budget



Funds with highest expenditures

General Fund	23%
Electric Fund	43%
Wastewater Fund	8%
Water Fund	8%

FY 2009/10 Budget



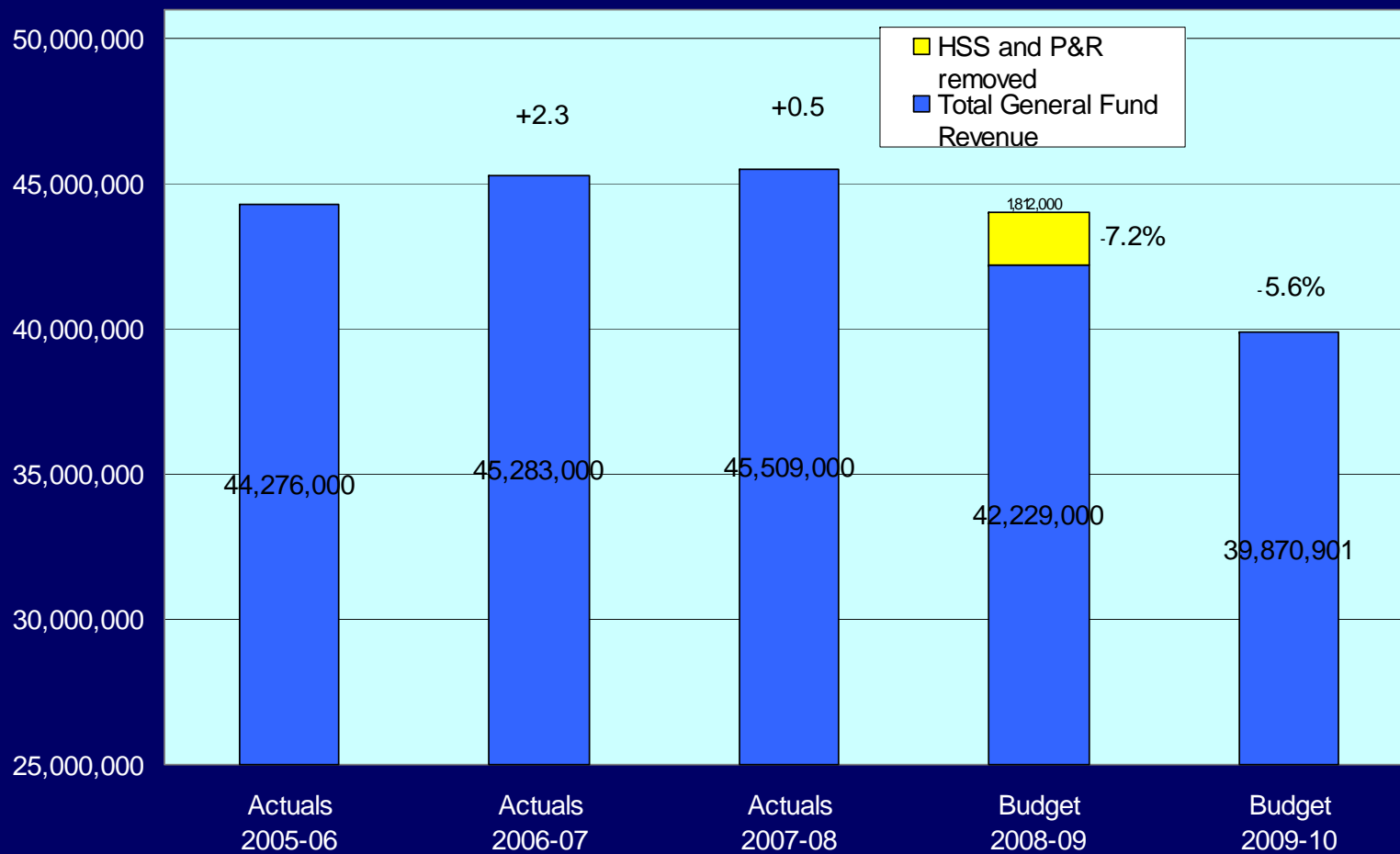
General Fund

- Overall decrease of ~\$2.4M or 5.6%
- Decrease of ~\$5.8M since 2007/08 budget
- Many revenue sources are reflecting the economic downturn

FY 2009/10 Budget



General Fund history



FY 2009/10 Budget

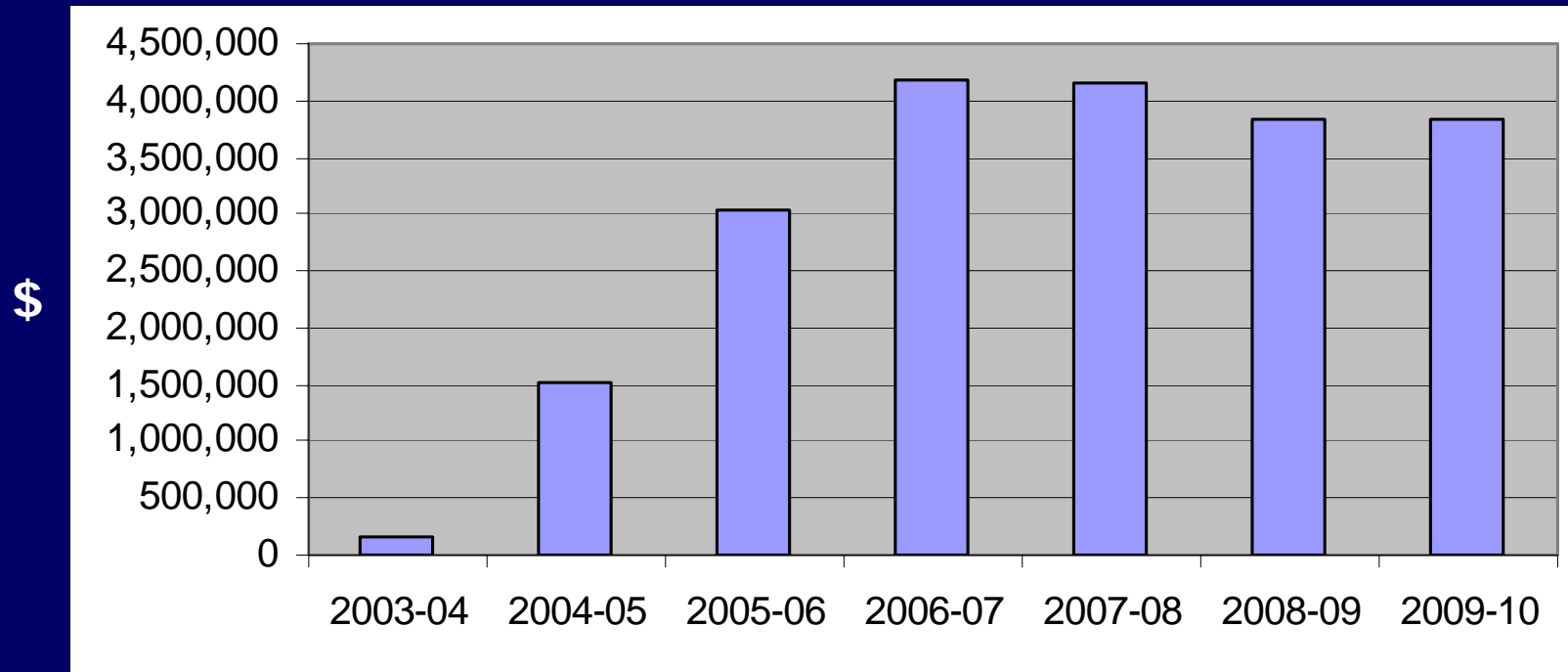


	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
General Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	3,048,435	4,175,522	4,534,293	4,159,007	3,831,962
Revenues	43,728,599	44,487,632	42,229,193	42,083,695	39,870,901
Expenditures	<u>42,601,512</u>	<u>44,504,147</u>	<u>42,709,952</u>	<u>42,410,740</u>	<u>39,870,901</u>
Net Difference (Revenues Less Expenditures)	1,127,087	(16,515)	(480,759)	(327,045)	-
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	<u>4,175,522</u>	<u>4,159,007</u>	<u>4,053,534</u>	<u>3,831,962</u>	<u>3,831,962</u>

FY 2009/10 Budget



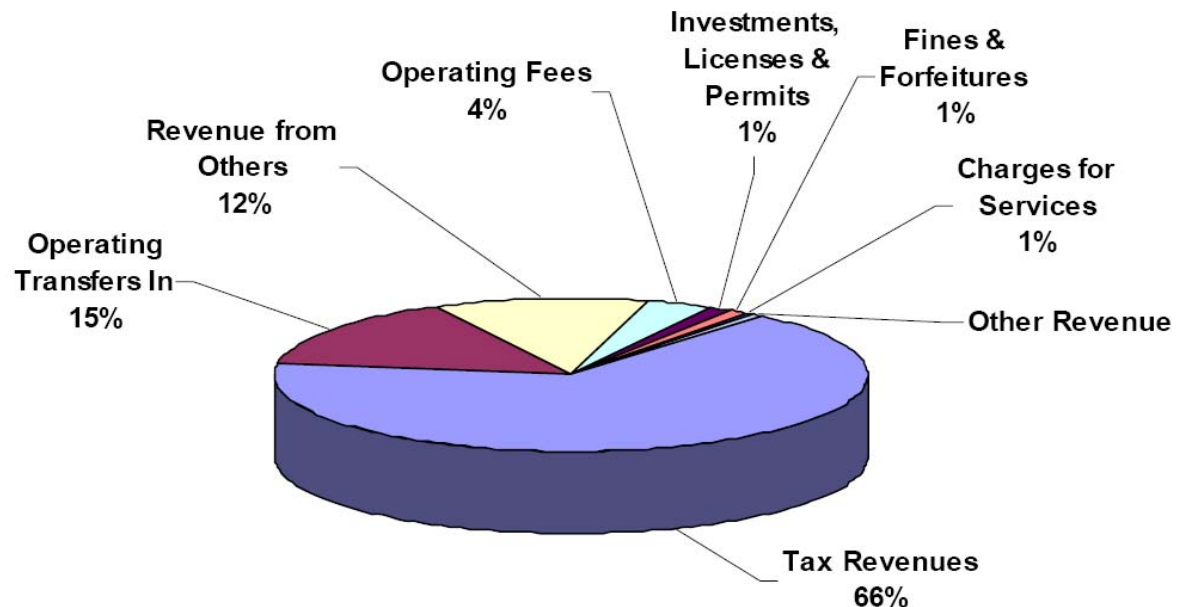
General Fund reserve history



FY 2009/10 Budget



General Fund by major sources



General Fund Revenues	Budget 2009-10
Tax Revenues	26,478,675
Operating Transfers In	5,932,983
Revenue from Others	4,681,271
Operating Fees	1,432,032
Investments, Licenses & Permits	520,550
Fines & Forfeitures	384,000
Charges for Services	246,940
Other Revenue	194,450
Grand Total	39,870,901

FY 2009/10 Budget



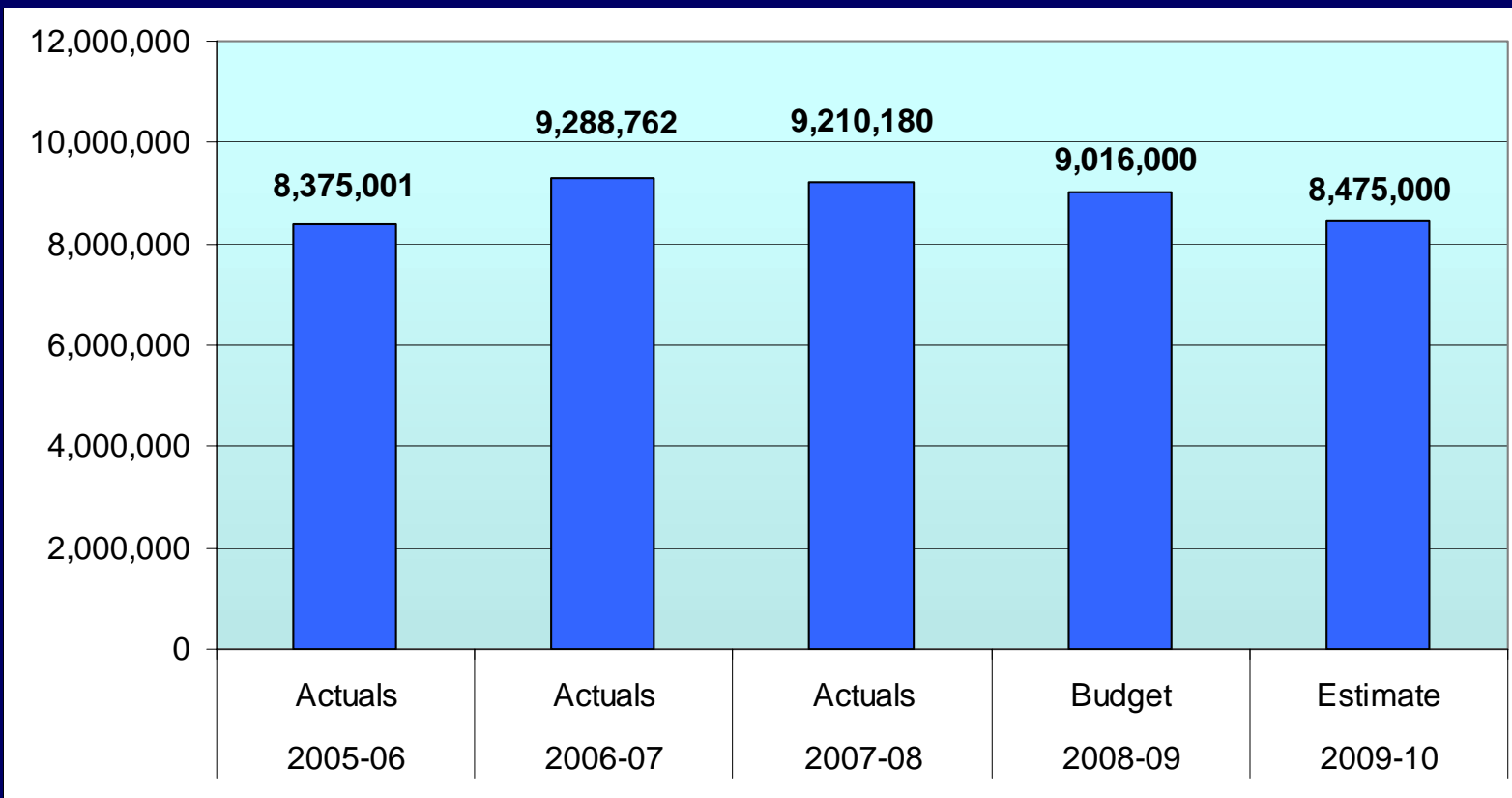
General Fund major sources

Description	2009-10 Budget
5011 Property Taxes-CY Secured	8,475,000
5031 Sales & Use Tax	7,479,255
5081 In-lieu Franchise-E. U.	6,976,670
4210 Operating Transfers In	5,932,983
5499 In-lieu - VLF	4,197,771
5036 Business License Tax	975,000
5051 Waste Removal Franchise	941,500
5207 Late Pmt-Utilities	780,000
5361 Rent	449,100
5054 Cable TV Franchise	425,000
5034 Transient Occupancy Tax	411,000
5201 Veh Code-Moving Violation	290,000
5032 Public Safety -Prop 172	266,000
5084 Admin fees-CVW	246,940
5602 Sch Drug Suppression	238,000
5053 Gas Franchise	205,000
6121 Engineering Fees	148,282
5035 Real Prop. Transfer Tax	140,000
5494 State Motor Veh In-Lieu	118,000
5040 Card Room Fee	114,750
5971 Fire Dept.Services-Other	100,000

FY 2009/10 Budget



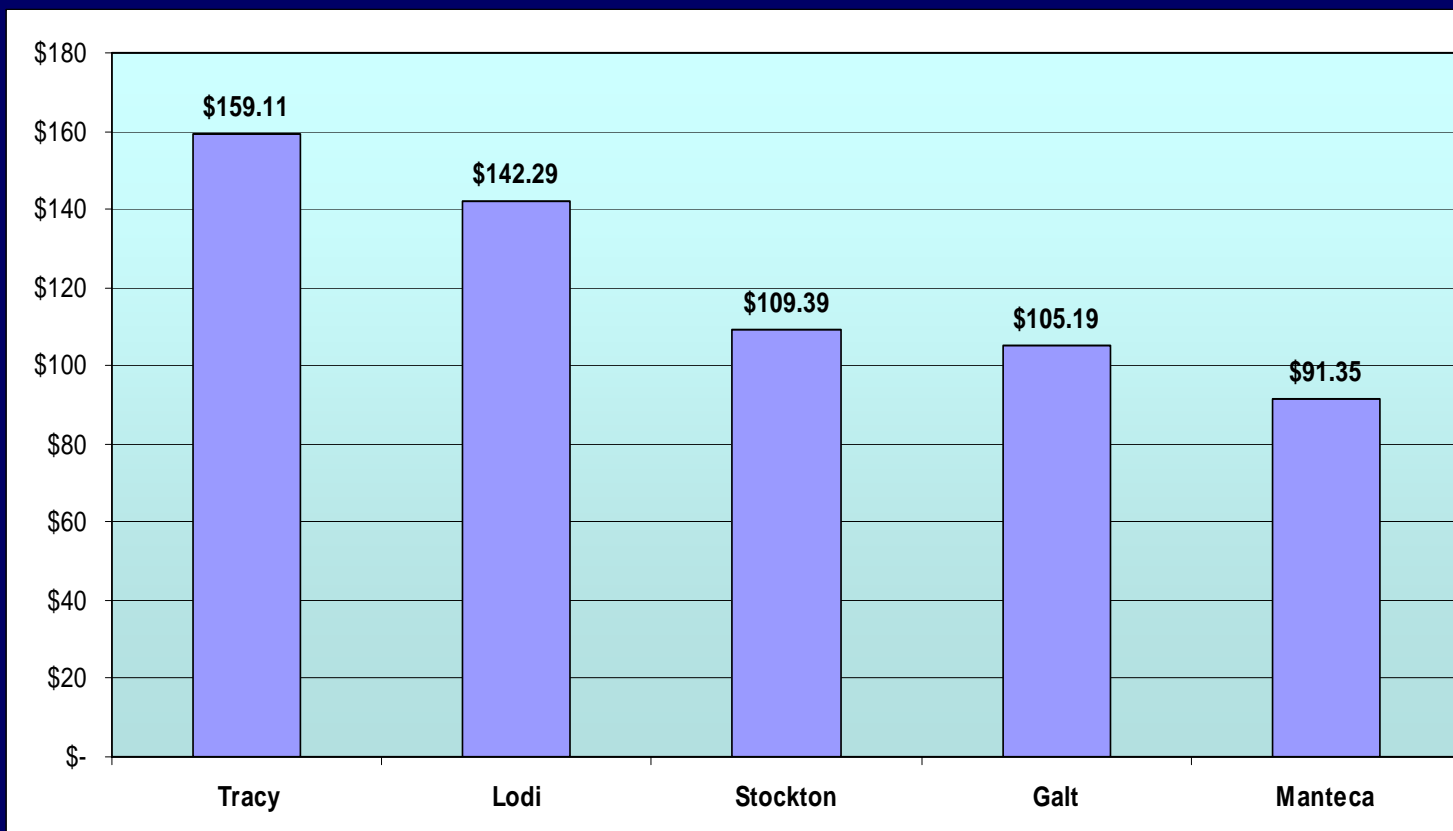
Property Tax revenue history



FY 2009/10 Budget



Property Tax Per Capita FY 2008/09



FY 2009/10 Budget



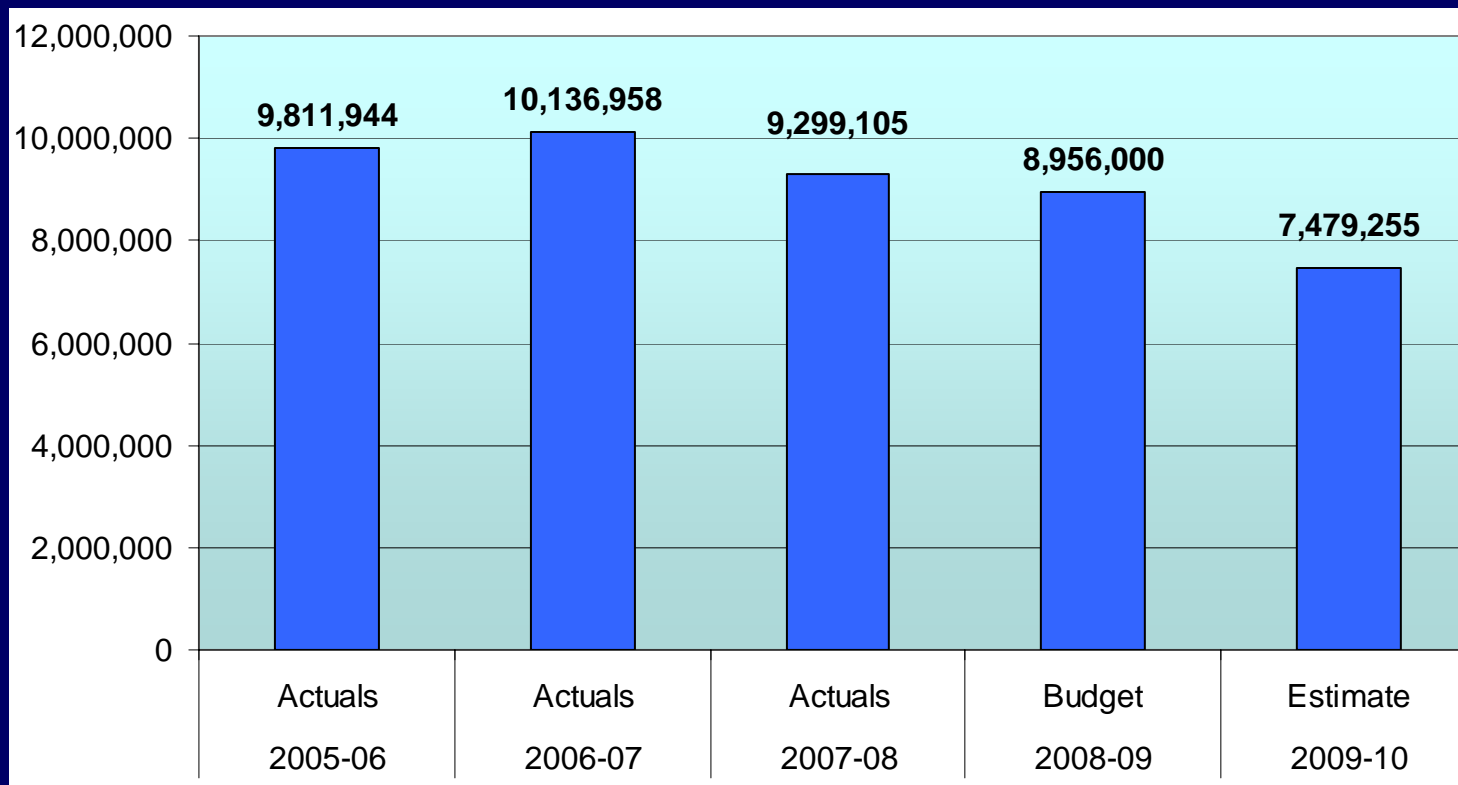
Property Tax Distribution

Taxing Entity	% Share
City of Lodi General Fund	16.6%
LUSD	27.3%
SJ County General Fund	22.0%
Delta College	3.8%
Other	2.6%
ERAF	27.7%

FY 2009/10 Budget



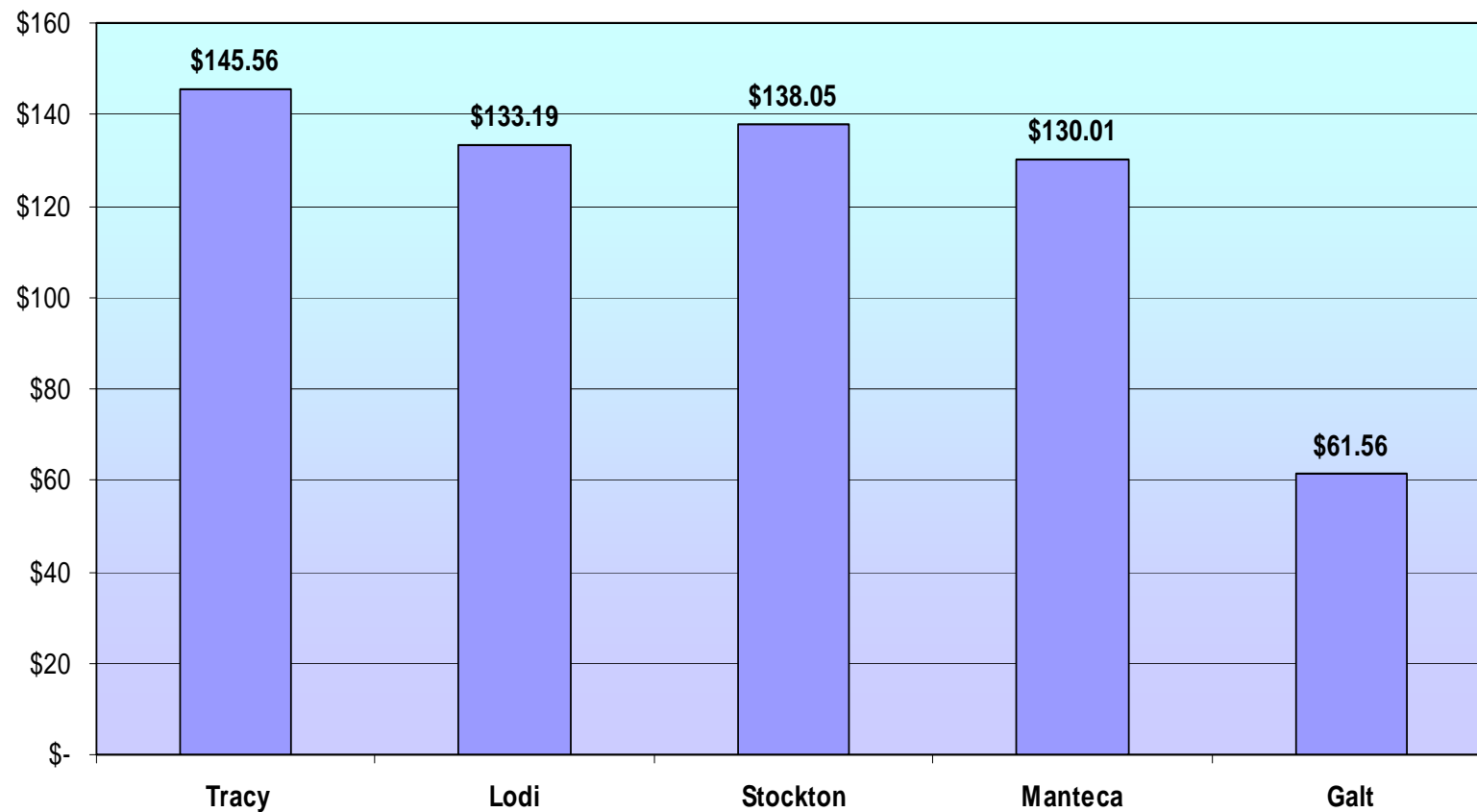
Sales and Use Tax history



FY 2009/10 Budget



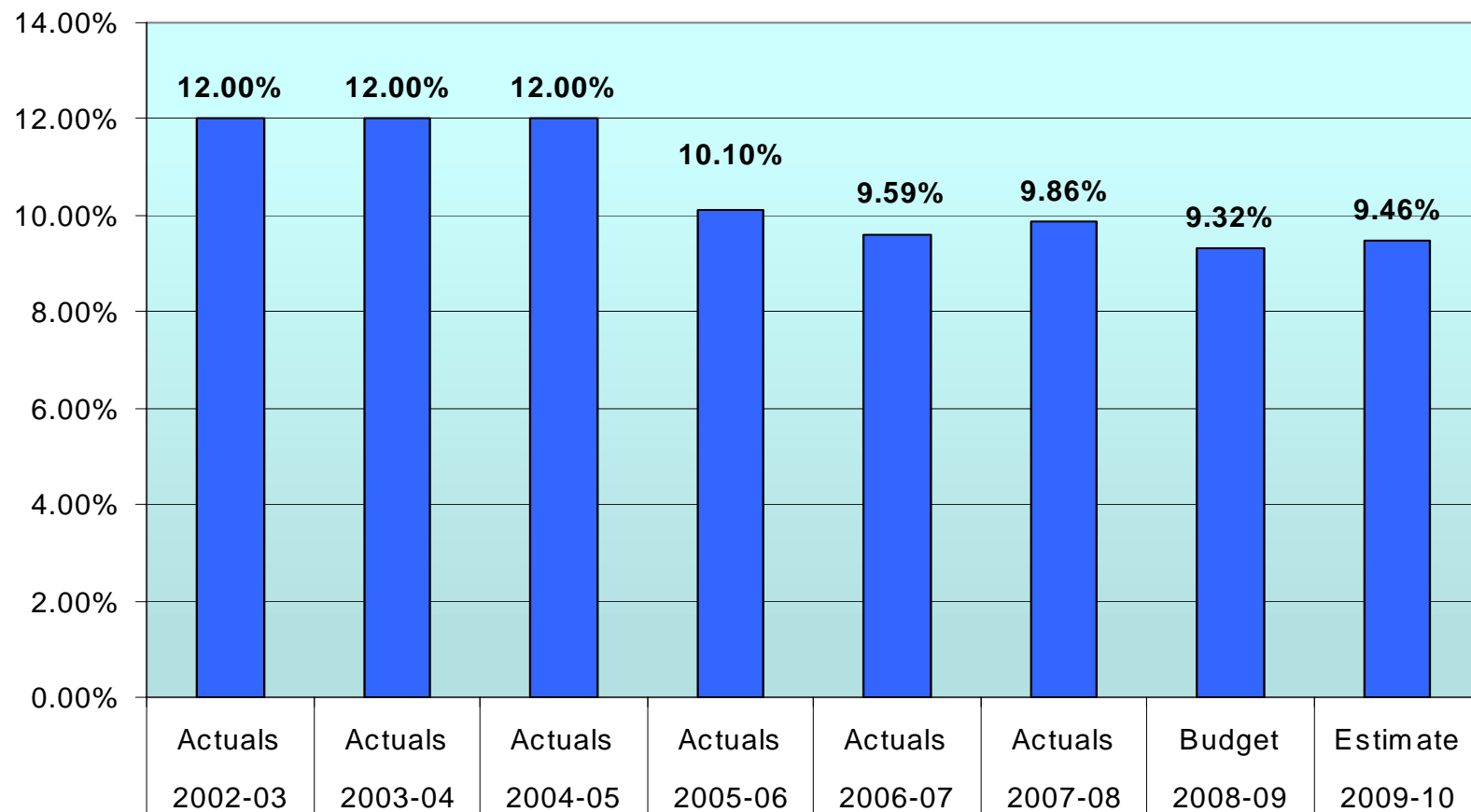
Sales Tax Per Capita FY 2008/09



FY 2009/10 Budget



In-lieu Franchise – Electric (PILOT)



FY 2009/10 Budget



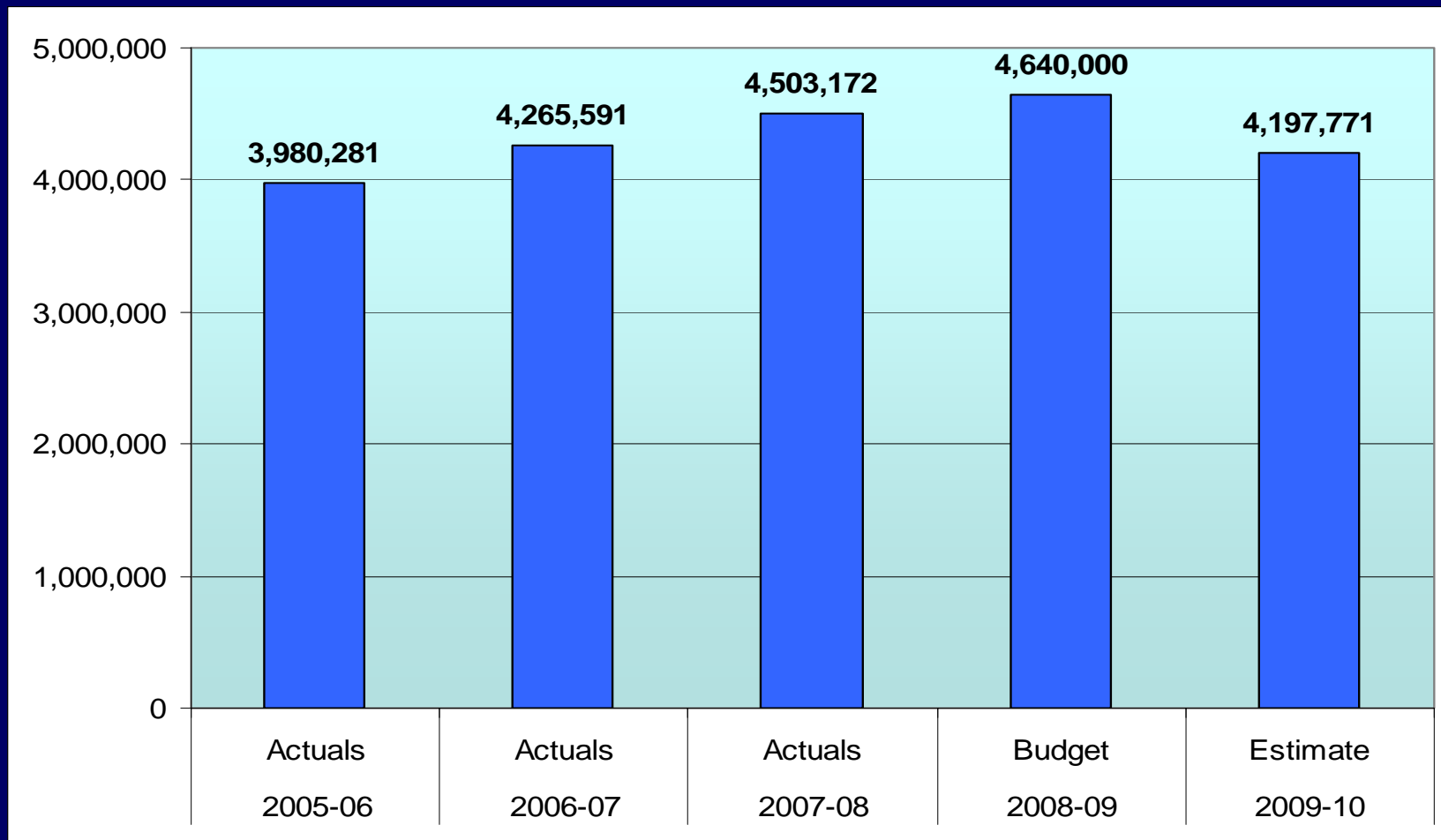
In-lieu Franchise – Electric (PILOT)

- Municipal utilities not subject to federal or state income taxes
- Municipal utilities may provide payments in lieu of taxes (transfers to the general fund and contributions of services to state and local governments)
- PILOT is set by formula adopted by the City Council in 2007
- Formula is \$6,779,000 plus the annual growth in customers

FY 2009/10 Budget



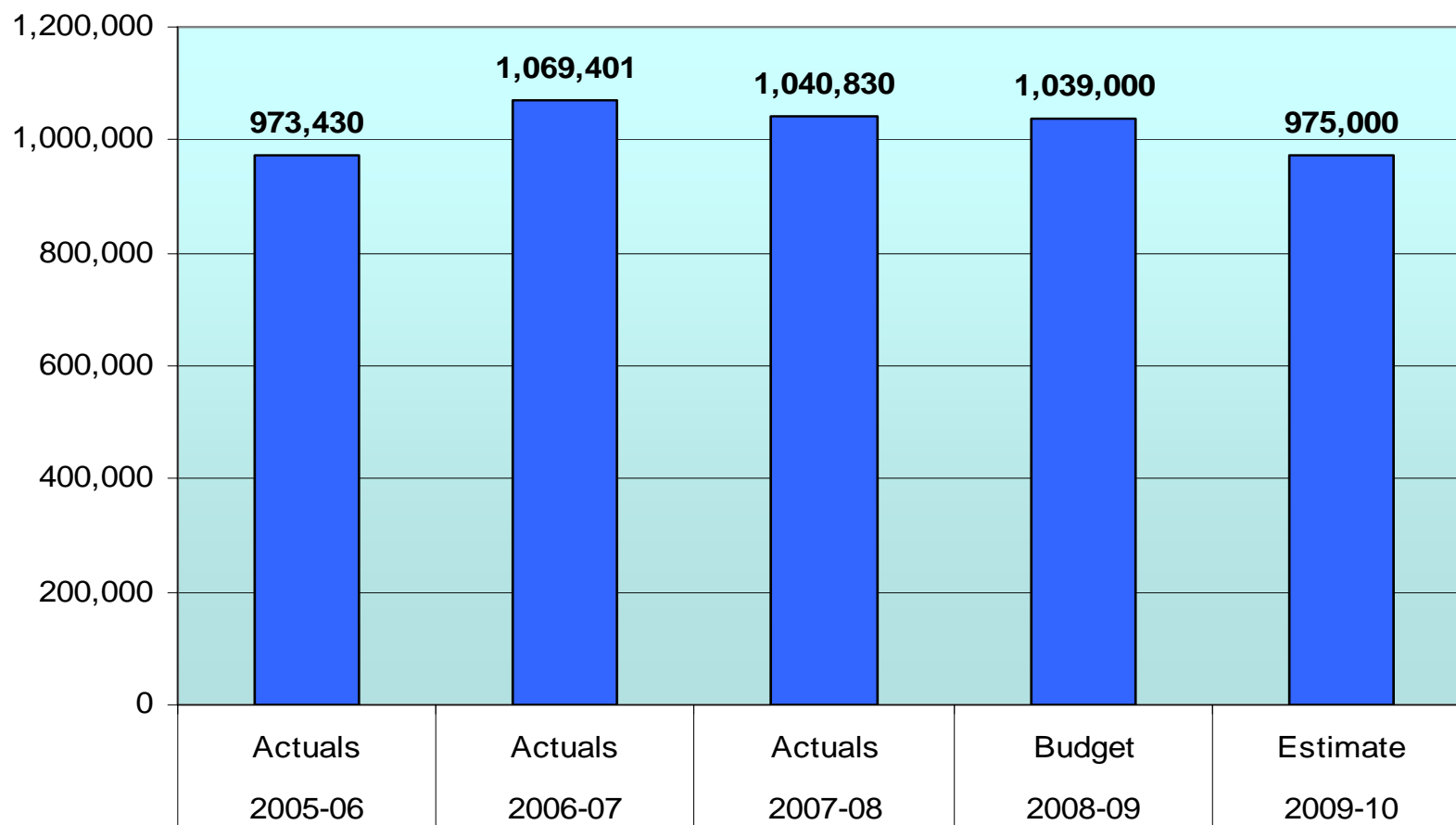
In-lieu Vehicle License Fees



FY 2009/10 Budget



Business License Tax



FY 2009/10 Budget



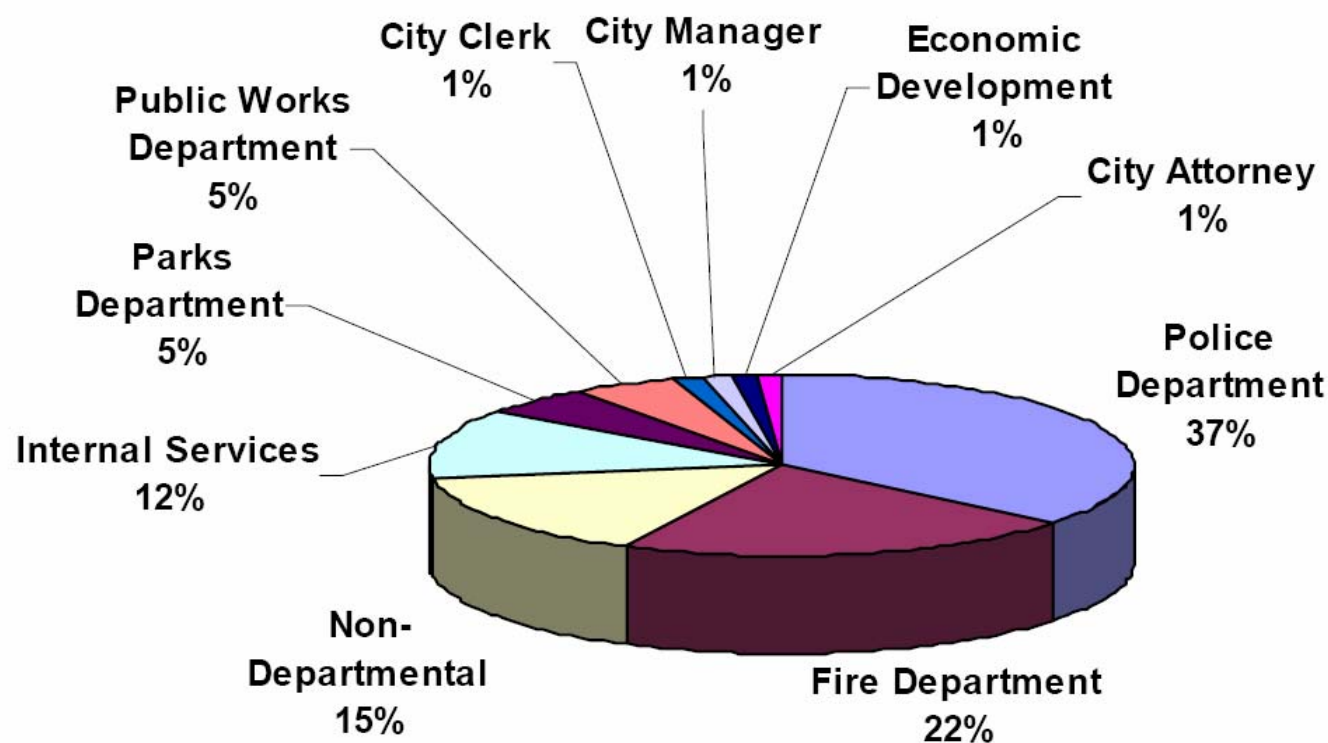
Business License Tax

- Business tax is paid at a rate determined by the business classification established by City Council Resolution
- The tax rate for all businesses is set by Resolution of the City Council
- City actively searches for unlicensed businesses
- Expected reduction of 6.5%

FY 2009/10 Budget



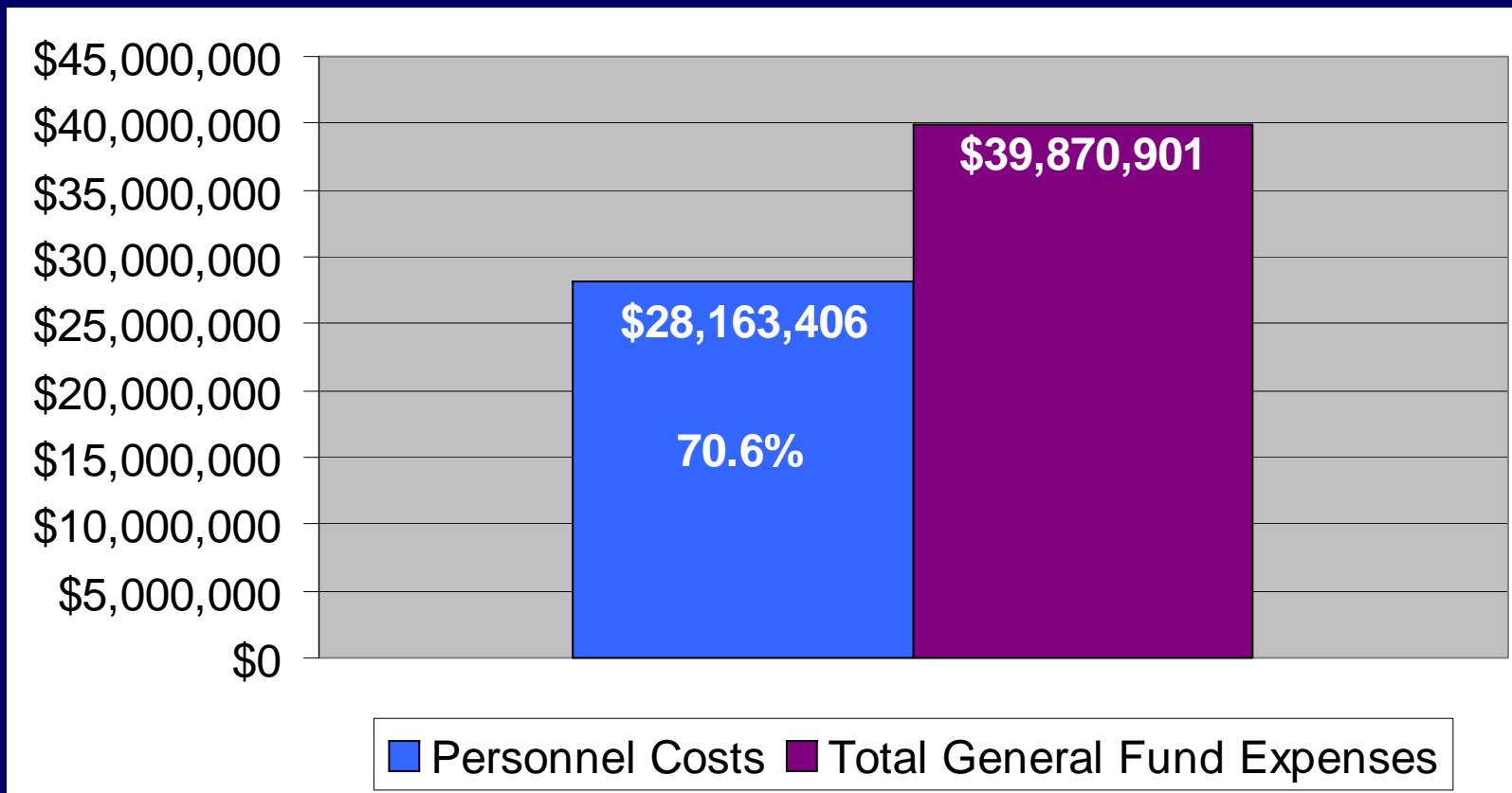
General Fund expenditures



FY 2009/10 Budget



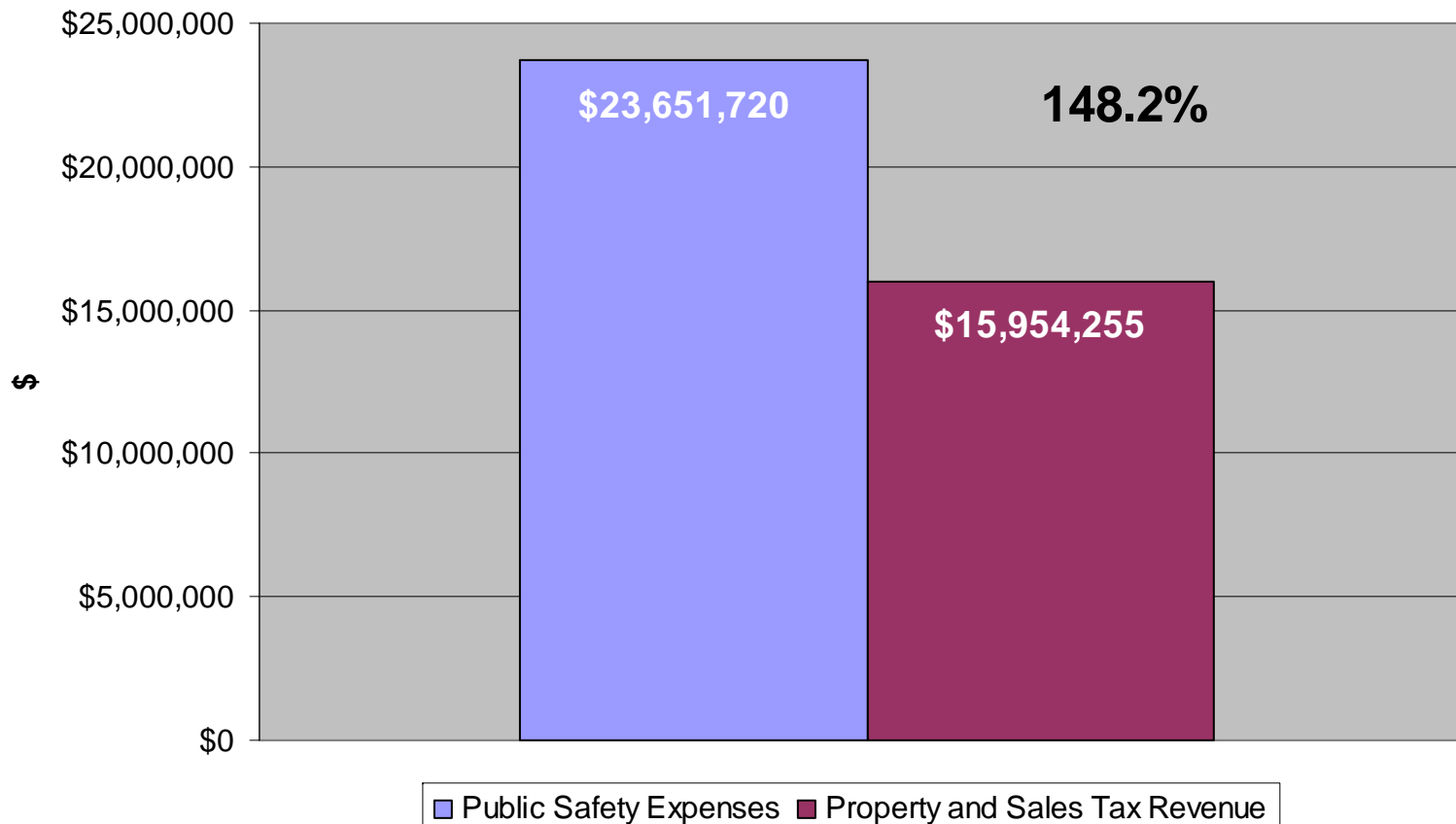
Personnel costs as % of GF



FY 2009/10 Budget



Public Safety budget vs. Property/Sales tax revenue



FY 2009/10 Budget



Police and Fire budgets

Police Dept.	\$14,955,058	37.51%
Fire Dept.	\$ 8,696,662	21.81%
Total	\$23,651,720	59.32%

FY 2009/10 Budget



Public Services

Public Works	\$1,962,141	4.92%
Comm. Development	\$ 213,100	0.53%
Streets MOE	\$ 842,671	2.11%
Total	\$3,017,912	7.56%

FY 2009/10 Budget



Culture and Recreation

Parks	\$2,251,918	5.65%
Library	\$1,352,031	3.39%
Community Center	\$1,166,095	2.92%
Recreation	\$ 494,132	1.24%
Total	\$5,264,176	13.2%

FY 2009/10 Budget



Support Services & Non-Dept'l

Internal Services	\$3,667,493	9.20%
Non-Departmental	\$2,241,933	5.62%
Total	\$5,909,426	14.82%

FY 2009/10 Budget



Administration/Econ. Develop.

City Clerk	\$548,540	1.38%
City Manager	\$538,610	1.35%
City Attorney	\$462,890	1.16%
Econ. Dev.	\$477,627	1.20%
Total	\$2,027,667	5.09%

FY 2009/10 Budget



Allocation of 2002 COP

Police Building	\$760,071 (45%)
Community Center HSS	\$663,329 (40%)
Econ. Develop. (School Street)	\$253,531 (15%)
Total	\$1,676,931

FY 2009/10 Budget



Econ. Develop. & Special Events

LCVB	\$78,080
San Joaquin Partnership	\$29,750
Lodi Chamber of Commerce	\$1,500
Fireworks	\$16,000
SJC Enterprise Zone	\$21,766
Arts grants	\$42,500
DLBP	\$0

FY 2009/10 Budget



Budget & Finance recommendations

May 4

PALS contract:	Approved 5-0
Fire Inspection services:	Approved 5-0
LCVB funding formula:	Approved 5-0
DLBP unfunding:	Approved 5-0
SJ Partnership reduction:	Approved 5-0
Continue Chamber dues (\$1,500):	Approved 5-0

May 11

Approve \$42,500 in Arts grants:	Approved 4-1-1
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FY 2009/10 Budget



Department Presentations

FY 2009/10 Budget



Police Department

FY 2009/10 budget	\$14,955,000
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FY 2008/09 budget	\$15,993,300
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Change	(\$1,038,300)	-6%
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General Fund ratio	38%
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Funded positions FY 09/10	113
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Unfunded positions	12
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Service adjustments: Less proactive policing, no crime prevention education, no crime analysis, reduced parking enforcement, reduced bike patrol, longer waits for public

FY 2009/10 Budget



Police Department/Accomplishments

- Implemented Fire Dispatch
- Integrated Community Improvement
- Acquired public safety software
- Implemented GREAT
- Animal Shelter improvements
- Developed strategic plan
- Increased proactive activities

FY 2009/10 Budget



Police Department/Emphasis

- Continue focus on vision of a safe and secure community
- Neighborhood Watch
- Problem locations/offenders
- Transition to OSSI software
- Community Improvement outreach
- Implementing aspects of strategic plan

FY 2009/10 Budget



Fire Department

FY 2009/10 budget	\$8,696,700
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FY 2008/09 budget	\$9,338,000
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Change	(\$641,300)	-7%
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General Fund ratio	22%
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Funded positions FY 09/10	62
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Unfunded positions	2
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Service adjustments: Additional apparatus brownouts, increased response times, reduction in fire prevention, public education and inspection services

FY 2009/10 Budget



Fire Department/Accomplishments

- Homeland Security grant for radios
- Cal EMA engine
- Continued apartment inspections
- Continued company inspection program

FY 2009/10 Budget



Fire Department/Emphasis

- Seek grant funding
- Complete Department's section of the General Plan
- Obtain stimulus funds for fire stations
- Complete Master Radio communications grant
- Develop and implement Mobile Computer Terminals
- Meet six-minute response goal at least 90 percent of time

FY 2009/10 Budget



Public Works (General Fund)

FY 2009/10 budget	\$1,962,100
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FY 2008/09 budget	\$3,409,000
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Change	(\$1,446,900)	-42%
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General Fund ratio	5%
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Funded positions FY 09/10	18
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Unfunded positions	5
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Service adjustments: Reduced personnel due to retirements will increase burden on remaining staff, wait times for public

FY 2009/10 Budget



Public Works/Accomplishments

- Water & Wastewater Utility financial model
- Installation of all prepaid water meters
- Initiated Harney Lane Specific Plan design project
- Harney Lane/State Route 99 Interchange Reconstruction
- Lodi Avenue Rehabilitation Project design/funding
- Library HVAC, Entry Ramp, Phase I Remodel Projects
- Financial Services building remodel and move completed
- Design of interim PCE/TCE Central Plume cleanup
- Transit Vehicle Maintenance Facility

FY 2009/10 Budget



Public Works/Emphasis

- Initiate update to Impact Mitigation fee program
- Complete utility master plans for General Plan update
- Complete design of Surface Water Treatment Plant
- Abate graffiti within one business day of notification
- Maintain level of service with reduced staff

FY 2009/10 Budget



Public Works/Water Utility

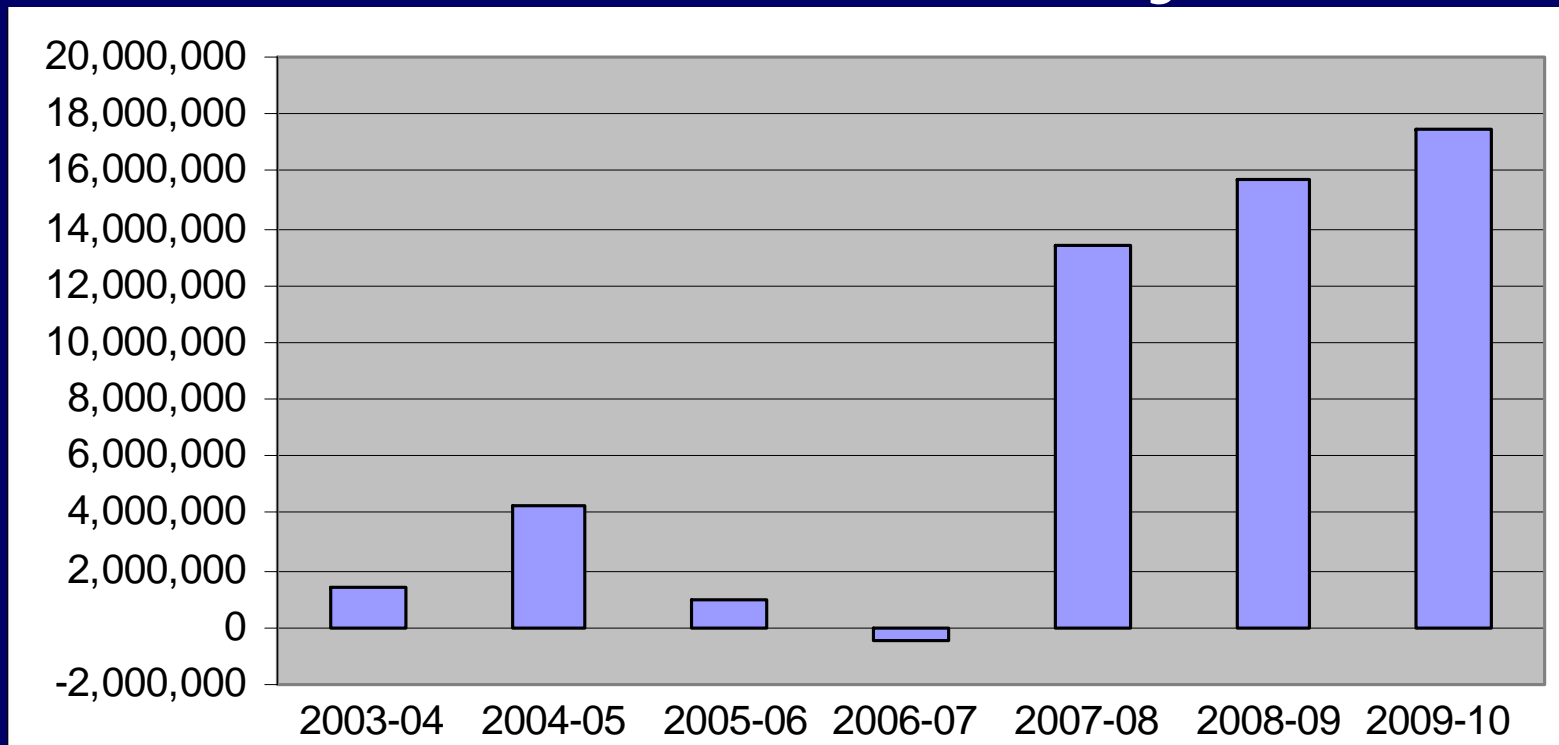
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Water Utility Enterprise Fund					
<u>Fund Balance (Cash)</u>					
Beginning Fund Balance (Cash) Unreserved	946,119	(475,262)	8,953,566	13,434,921	15,761,074
Revenues	11,489,976	23,293,009	13,297,945	14,645,918	14,186,738
Expenditures	<u>12,911,357</u>	<u>9,382,826</u>	<u>15,523,008</u>	<u>12,319,765</u>	<u>12,500,365</u>
Net Difference (Revenues Less Expenditures)	(1,421,381)	13,910,183	(2,225,063)	2,326,153	1,686,373
<u>Fund Balance (Cash)</u>					
Ending Fund Balance (Cash) Unreserved	<u>(475,262)</u>	<u>13,434,921</u>	<u>6,728,503</u>	<u>15,761,074</u>	<u>17,447,447</u>

FY 2009/10 Budget



Public Works/Water Utility

Fund balance history



FY 2009/10 Budget



Public Works/Water Utility

FY 2009/10 budget	\$12,500,400
FY 2008/09 budget	\$15,523,000
Change	(\$3,022,600) -20%
Funded positions FY 09/10 (Water & WW)	40
Unfunded positions	0

FY 2009/10 Budget



Public Works/Wastewater

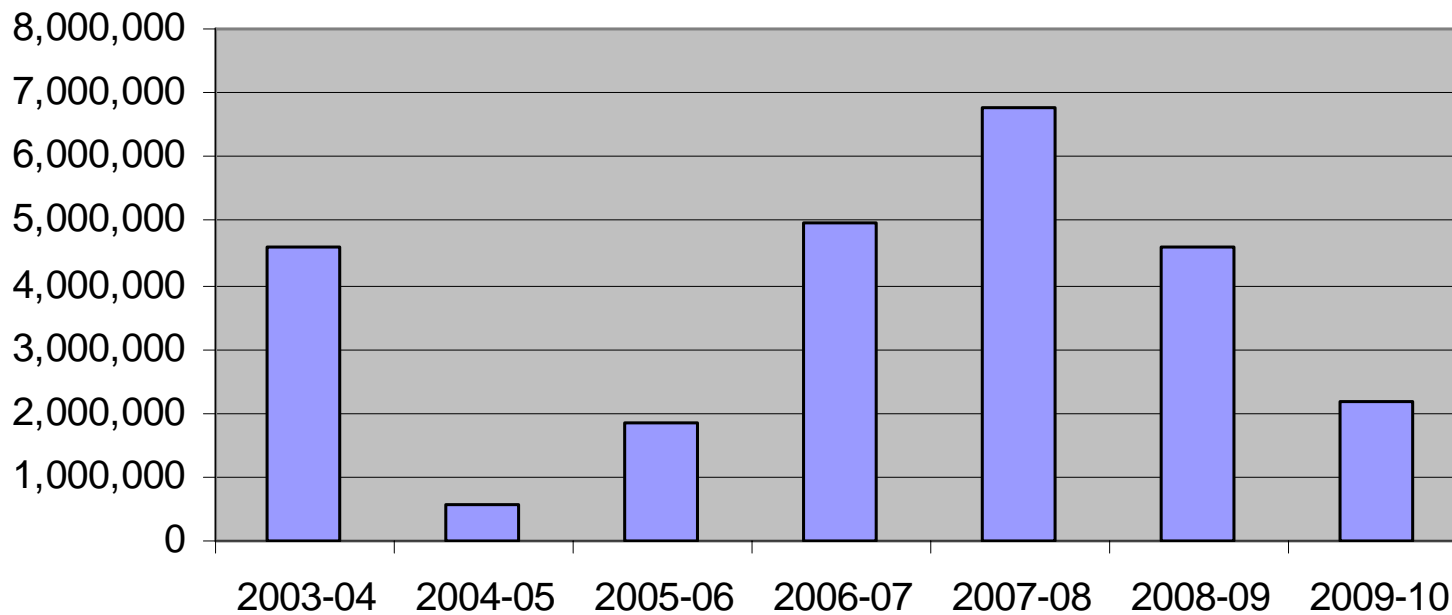
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Wastewater Utility Enterprise Fund					
<u>Fund Balance (Cash)</u>					
Beginning Fund Balance (Cash) Unreserved	1,866,805	4,956,069	9,971,095	6,766,472	4,568,929
Revenues	17,957,059	38,421,977	21,457,272	15,532,196	13,821,930
Expenditures	<u>14,867,795</u>	<u>36,611,574</u>	<u>30,497,223</u>	<u>17,729,739</u>	<u>16,230,611</u>
Net Difference (Revenues Less Expenditures)	3,089,264	1,810,403	(9,039,951)	(2,197,543)	(2,408,681)
<u>Fund Balance (Cash)</u>					
Ending Fund Balance (Cash) Unreserved	<u>4,956,069</u>	<u>6,766,472</u>	<u>931,144</u>	<u>4,568,929</u>	<u>2,160,248</u>

FY 2009/10 Budget



Public Works/Wastewater

Fund balance history



FY 2009/10 Budget



Public Works/Wastewater

FY 2009/10 budget	\$16,230,600
FY 2008/09 budget	\$30,497,200
Change	(\$14,266,600) -47%

FY 2009/10 Budget



Public Works/Transit

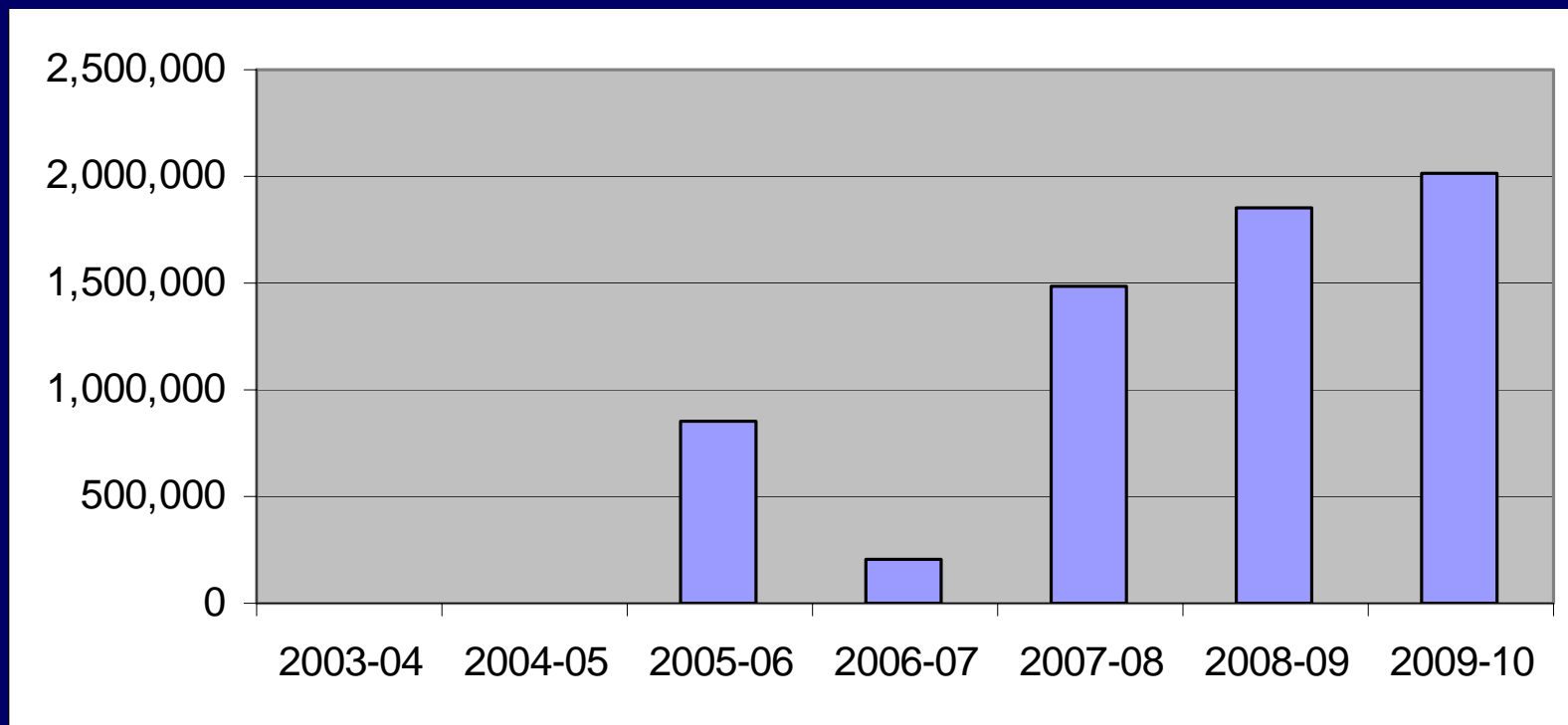
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Transit Fund					
<u>Fund Balance (Cash)</u>					
Beginning Fund Balance (Cash) Unreserved	851,427	213,212	360,309	1,478,458	1,856,155
Revenues	3,355,922	4,923,545	7,002,481	6,873,513	4,232,831
Expenditures	<u>3,994,137</u>	<u>3,658,299</u>	<u>7,338,156</u>	<u>6,495,816</u>	<u>4,070,445</u>
Net Difference (Revenues Less Expenditures)	(638,215)	1,265,246	(335,675)	377,697	162,386
<u>Fund Balance (Cash)</u>					
Ending Fund Balance (Cash) Unreserved	<u>213,212</u>	<u>1,478,458</u>	<u>24,634</u>	<u>1,856,155</u>	<u>2,018,541</u>

FY 2009/10 Budget



Public Works/Transit

Fund balance history



FY 2009/10 Budget



Public Works/Transit

FY 2009/10 budget	\$4,070,400
FY 2008/09 budget	\$7,338,200
Change	(\$3,267,800) -45%
Funded positions FY 09/10	3
Unfunded positions	0

FY 2009/10 Budget



Public Works/Streets & Drainage

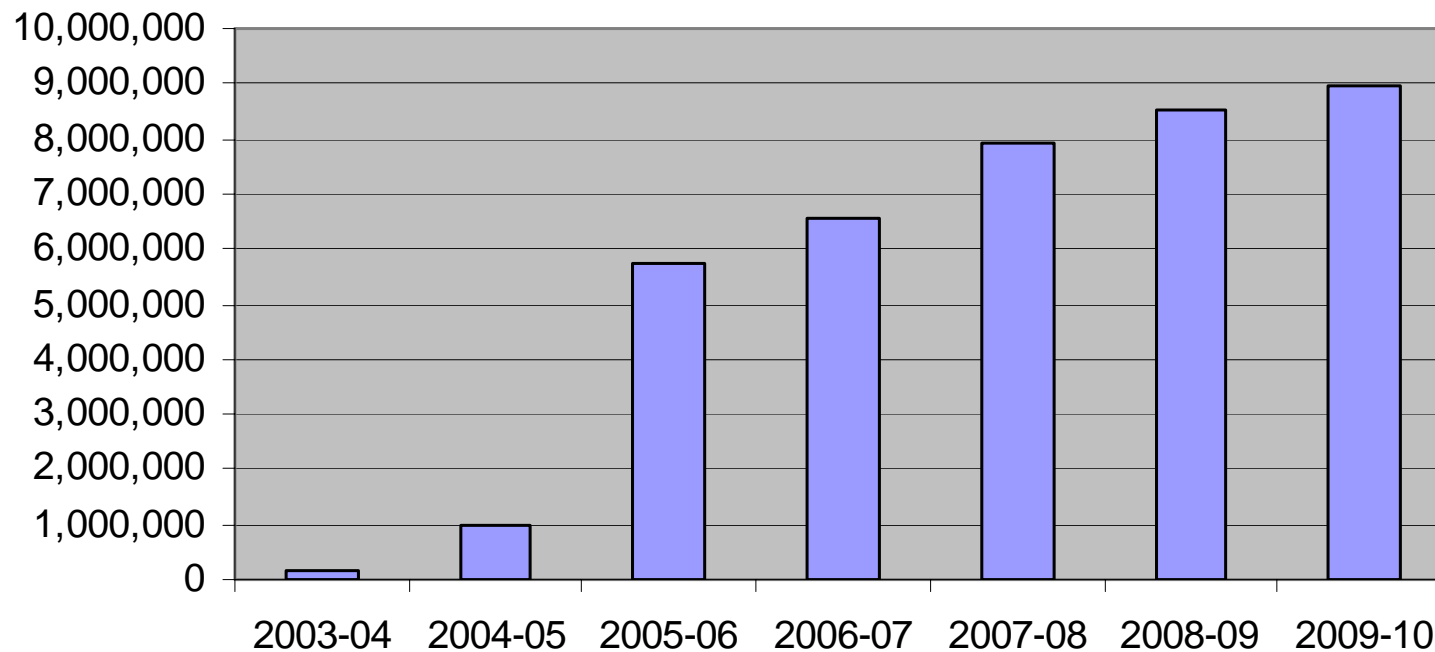
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Street Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	5,737,407	6,546,231	4,772,818	7,907,130	8,512,374
Revenues	5,295,890	5,612,485	4,667,659	5,369,737	3,563,013
Expenditures	<u>4,487,066</u>	<u>4,251,586</u>	<u>8,424,384</u>	<u>4,764,493</u>	<u>3,120,826</u>
Net Difference (Revenues Less Expenditures)	808,824	1,360,899	(3,756,725)	605,244	442,187
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	<u>6,546,231</u>	<u>7,907,130</u>	<u>1,016,093</u>	<u>8,512,374</u>	<u>8,954,561</u>

FY 2009/10 Budget



Public Works/Streets & Drainage

Fund balance history



FY 2009/10 Budget



Public Works/Streets & Drainage

FY 2009/10 budget	\$3,120,800
FY 2008/09 budget	\$8,424,400
Change	(\$5,303,600) 63%
Funded positions FY 09/10	26
Unfunded positions	1

FY 2009/10 Budget



Public Works/Fleet Services

	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Fleet Services Internal Services Fund					
<u>Fund Balance (Cash)</u>					
Beginning Fund Balance (Cash) Unreserved	-	-	27,928	-	-
Revenues	1,565,130	1,090,871	1,947,553	1,864,249	1,929,720
Expenditures	<u>1,565,130</u>	<u>1,090,871</u>	<u>1,947,553</u>	<u>1,864,249</u>	<u>1,929,720</u>
Net Difference (Revenues Less Expenditures)	-	-	-	-	-
<u>Fund Balance (Cash)</u>					
Ending Fund Balance (Cash) Unreserved	<u>-</u>	<u>-</u>	<u>27,928</u>	<u>-</u>	<u>-</u>

FY 2009/10 Budget



Public Works/Fleet Services

FY 2009/10 budget		\$1,929,700
FY 2008/09 budget		\$1,947,600
Change	(\$17,900)	-1%
Funded positions FY 09/10		11
Unfunded positions		0

FY 2009/10 Budget



Parks Division

FY 2009/10 budget	\$2,251,900
FY 2008/09 budget	\$2,427,100
Change	(\$175,200) -7%
General Fund ratio	6%
Funded positions FY 09/10	20
Unfunded positions	2
Service adjustments: Reduced park maintenance due to two unfunded positions	

FY 2009/10 Budget



Recreation Fund

	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Recreation Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	-	-	-	-	49
Revenues	-	-	1,798,838	1,717,115	1,844,318
Expenditures	-	-	1,763,730	1,717,066	1,844,318
Net Difference (Revenues Less Expenditures)	-	-	35,108	49	-
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	-	-	35,108	49	49

FY 2009/10 Budget



Recreation Division

FY 2009/10 budget	\$1,844,300
FY 2008/09 budget	\$1,763,700
Change	\$80,600 +5%
General Fund support	\$494,130
Funded positions FY 09/10	9.5
Unfunded positions	0

FY 2009/10 Budget



Parks & Recreation/Accomplishments

Parks

- Installation of new Lodi Lake Boat House
- Repair and reopening of Lodi Skate Park at Kofu Park
- Approval to move forward with ADA improvements and installation of synthetic turf at the Grape Bowl

Recreation

- Implemented online registration process
- Redesigned department web page
- Moved to a program budget operation

FY 2009/10 Budget



Parks & Recreation/Emphasis

Parks

- Phase I DeBenedetti Park
- Complete maintenance standards manual
- Continue ADA improvements at the Grape Bowl
- Salas Park lighting

Recreation

- Establish a special events unit
- Partner with nonprofits to boost youth participation
- Continue to expand adult sports opportunities

FY 2009/10 Budget



Community Center

	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Community Center Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	-	-	-	-	-
Revenues	-	-	1,938,531	1,943,849	1,859,673
Expenditures	-	-	1,938,531	1,943,849	1,859,673
Net Difference (Revenues Less Expenditures)	-	-	-	-	-
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	-	-	-	-	-

FY 2009/10 Budget



Community Center

FY 2009/10 budget	\$1,859,700
FY 2008/09 budget	\$1,938,500
Change	(\$78,800) -4%
General Fund support	\$1,166,095
Funded positions FY 09/10	7.5
Unfunded positions	0
Service adjustment: Continue deferring maintenance	

FY 2009/10 Budget



Community Center/Accomplishments

- Increased revenues for the Performing Arts Center
- Doubled UOP/Osher mature learning opportunities
- Produced Activity Guide with Parks & Recreation
- Held 6th Annual Arts Open House
- Worked with Parks & Recreation on common goals
- Transitioned to web-based scheduling for classes

FY 2009/10 Budget



Community Center/Emphasis

- Continue to develop new revenue-generating programs
- Deferred maintenance
- Senior Commission expanding resources
- Formulate strategy for Art in Public Places
- Increase rental revenue by 5 percent over FY 2008/09
- Rebid catering services contract
- Implement program-based budgeting for activities

FY 2009/10 Budget



City Clerk

FY 2009/10 budget		\$548,500
FY 2008/09 budget		\$571,800
Change	(\$23,300)	-4%
General Fund ratio		1%
Funded positions FY 09/10		4
Unfunded positions		0

FY 2009/10 Budget



City Clerk/Accomplishments

- November 4, 2008 General Municipal Election
- March 3, 2009 Special Municipal Election
- Fully implemented Granicus
- Ensured compliance with Political Reform Act through campaign statement filings

FY 2009/10 Budget



City Clerk/Emphasis

- Administer FPPC campaign disclosure statements for Candidate Controlled committees and PACs
- Continue working with the County Registrar of Voters to implement a Voting Rights Act compliance plan
- Continue outreach and citizen voter registration
- Continue monitoring State legislation and FPPC regulations

FY 2009/10 Budget



City Attorney

FY 2009/10 budget		\$462,900
FY 2008/09 budget		\$480,100
Change	(\$17,200)	-4%
General Fund ratio		1%
Funded positions FY 09/10		3
Unfunded positions		0

FY 2009/10 Budget



City Attorney/Accomplishments

- Finalized last PCE-related litigation
- Drafted Lodi Tourism Business Improvement District Expansion, Card Room and Wastewater Pretreatment ordinances
- Resolved AT&T litigation at no cost
- Managed legal revision to Wal-Mart EIR
- Prosecuted 12 massage ordinance violations

FY 2009/10 Budget



City Attorney/ Emphasis

- Enforce code compliance through court action
- Draft Medical Marijuana Dispensary ordinance
- Increase in-house employment law expertise
- Pursue PCE Stimulus funding
- Develop wastewater expertise and assist with permit
- Implement new Proposition 218 indexing process
- Draft revised Massage Ordinance to comply with 7/1/09 State law

FY 2009/10 Budget



City Manager

FY 2009/10 budget		\$538,600
FY 2008/09 budget		\$587,900
Change	(\$49,300)	-8%
General Fund ratio		1%
Funded positions FY 09/10		6
Unfunded positions		0

FY 2009/10 Budget



City Manager/ Accomplishments

- Made two budget adjustments within the fiscal year to meet fast-changing economic conditions
- Refinanced 2002 Electric Utility bonds to eliminate uncertain market risk
- Hired Deputy City Manager/Internal Services Director
- Negotiated with all bargaining groups to meet budget challenges
- Moved forward with General Plan update

FY 2009/10 Budget



City Manager/Emphasis

- Complete General Plan update
- Proactively respond to economic conditions to maintain financial viability
- Use City's technology for improved communications
- Monitor grant and federal economic stimulus opportunities
- Maintain open communications with the labor force

FY 2009/10 Budget



Economic Development

FY 2009/10 budget		\$477,600
FY 2008/09 budget		\$522,700
Change	(\$45,100)	-9%
General Fund ratio		1%

FY 2009/10 Budget



Economic Develop. organizations

- Visit Lodi! Conference & Visitors Bureau (\$78,080)
- San Joaquin Partnership (\$29,750)
- Lodi District Chamber of Commerce (\$1,500)
- Fireworks (\$16,000)
- SJC Enterprise Zone administration (\$21,766)
- Downtown Lodi Business Partnership (\$0)
- Arts grants (\$42,500)

FY 2009/10 Budget



Econ. Develop./Accomplishments

- Parcel-by-parcel analysis to expand Lodi portion of SJC Enterprise Zone
- Worked with SJ County EZ marketing staff to identify Lodi businesses for one-on-one meetings
- Strengthened ties with wineries for downtown tasting rooms
- Blue Shield opening expanded operations in Lodi

FY 2009/10 Budget



Econ. Development/Emphasis

- Promote concept of “green” business incubator and work to attract alternative-energy start-ups
- Hold downtown summit to explore next step in business district development
- Hold Eastside summit to explore options to enhance economic vitality
- Expand visitor opportunities downtown
- Continue to recruit additional retailers
- Promote new development opportunities resulting from revised General Plan

FY 2009/10 Budget



Internal Services

**Budget & Treasury, Financial Services,
Human Resources, Information Systems**

FY 2009/10 budget \$3,667,500

FY 2008/09 budget \$3,994,400

Change (\$326,900) -8%

General Fund ratio 9%

Funded positions FY 09/10 32

Unfunded positions 5

Service adjustments: Increased workload on staff

FY 2009/10 Budget



Internal Services/Accomplishments

- Published 2008/09 City of Lodi Budget and Budget-in-Brief
- Adjusted budget twice in response to economic conditions
- Received clean audit opinion and received GFOA Award for Excellence in Financial Reporting
- Implemented online payments
- Updated policies, procedures and practices
- Variety of supervisory and managerial skill building forums
- Developed document management system to warehouse scanned or digital documents

FY 2009/10 Budget



Internal Services/Emphasis

- Monitor economic conditions and adjust Budget if needed
- Upgrade JDE to current version
- Implement pay stations offsite to enhance accessibility and reduce lobby traffic
- Finish updates to Admin. Policy & Procedures, Personnel Rules and Employer-Employee Relations document
- Establish wellness program for City employees
- Continue to provide supervisory training workshops

FY 2009/10 Budget



Non-Departmental

FY 2009/10 budget		\$6,309,962
FY 2008/09 budget		\$5,385,598
Change	\$924,364	+17%
General Fund ratio		16%

FY 2009/10 Budget



Electric Utility

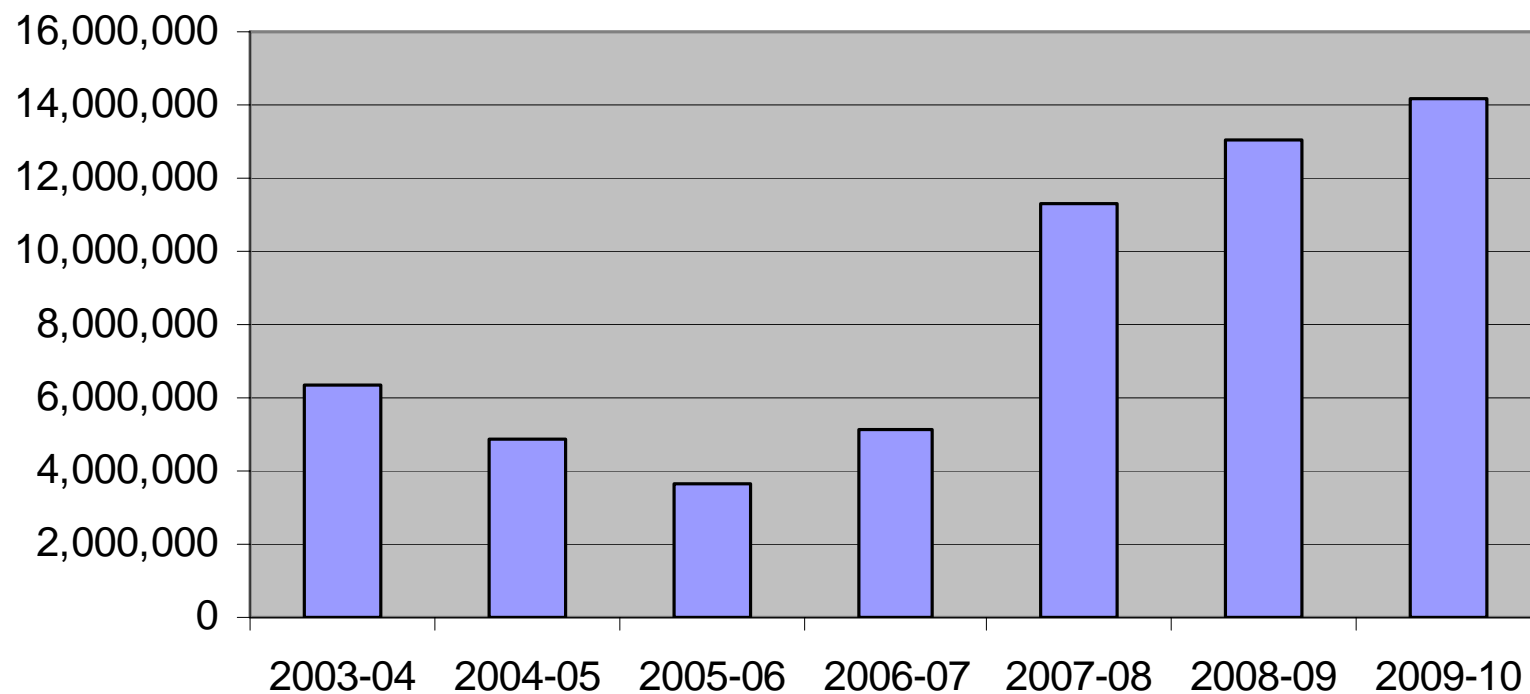
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Electric Utility Enterprise Fund					
<u>Fund Balance (Cash)</u>					
Beginning Fund Balance (Cash) Unreserved	3,631,402	5,162,284	10,909,302	11,339,624	13,072,819
Revenues	70,702,774	69,734,050	74,471,805	74,663,718	73,752,410
Expenditures	<u>69,171,892</u>	<u>63,556,710</u>	<u>73,091,069</u>	<u>72,930,523</u>	<u>72,634,564</u>
Net Difference (Revenues Less Expenditures)	1,530,882	6,177,340	1,380,736	1,733,195	1,117,846
<u>Fund Balance (Cash)</u>					
Ending Fund Balance (Cash) Unreserved	<u>5,162,284</u>	<u>11,339,624</u>	<u>12,290,038</u>	<u>13,072,819</u>	<u>14,190,665</u>

FY 2009/10 Budget



Electric Utility

Fund balance history



FY 2009/10 Budget



Electric Utility

FY 2009/10 budget		\$72,634,600
FY 2008/09 budget		\$73,091,100
Change	(\$456,500)	-1%
Funded positions FY 09/10		48
Unfunded positions		2

FY 2009/10 Budget



Electric Utility/Accomplishments

- Oversaw Phase II development work for Lodi Energy Center
- Detailed review of alternatives for Westside 60KV Power Line Project - initiated CEQA review
- Refinanced \$47 million of variable-rate debt
- Fitch and Standard & Poor's upgrade
- 25-megawatt purchase for July 2010-March 2012 period
- Economic Development Rates

FY 2009/10 Budget



Electric Utility/Emphasis

- Complete Phase II development work on Lodi Energy Center and negotiate Phase III agreement
- Close open power positions through June 2012
- Complete environmental work on Westside 60KV Transmission Project
- Complete environmental and engineering work for development of new Westside Substation
- Pursue an increase in financial rating by Fitch Ratings
- Pursue and obtain American Recovery and Reinvestment Act stimulus funding for local energy programs

FY 2009/10 Budget



Community Development

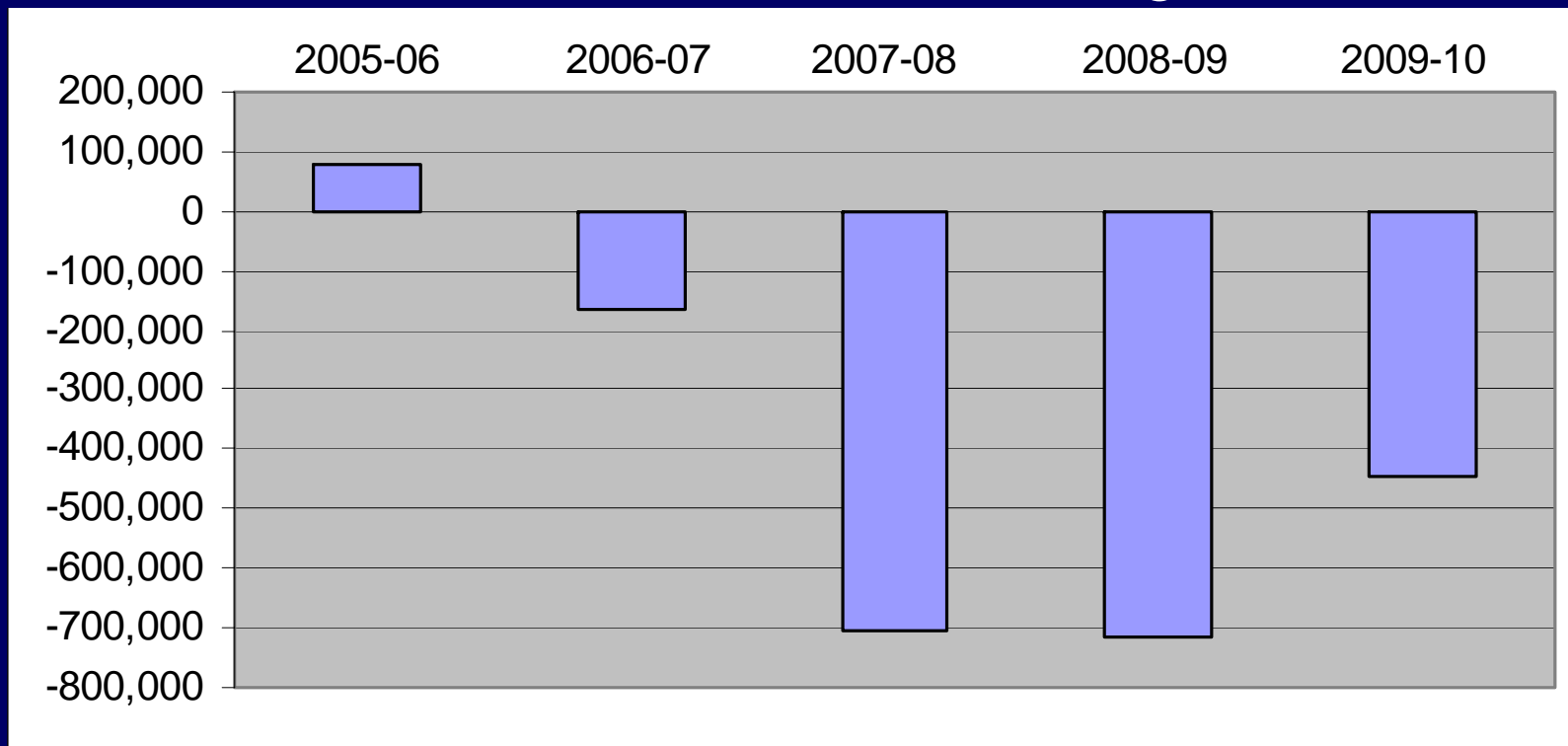
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Community Development Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	78,692	(167,024)	(454,604)	(702,127)	(713,886)
Revenues	1,821,426	1,479,536	1,615,148	1,367,691	1,478,891
Expenditures	<u>2,067,142</u>	<u>2,014,639</u>	<u>1,628,438</u>	<u>1,379,450</u>	<u>1,210,238</u>
Net Difference (Revenues Less Expenditures)	(245,716)	(535,103)	(13,290)	(11,759)	268,653
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	<u>(167,024)</u>	<u>(702,127)</u>	<u>(467,894)</u>	<u>(713,886)</u>	<u>(445,233)</u>

FY 2009/10 Budget



Community Development

Fund balance history



FY 2009/10 Budget



Community Development

FY 2009/10 budget	\$1,210,200
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FY 2008/09 budget	\$1,628,400
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Change	(\$418,200)	-26%
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General Fund support	\$213,100
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Personnel	11
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Unfunded positions	2
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Service adjustments: Reduced support for public, longer wait times for applicants, reduced Planning Commission support

FY 2009/10 Budget



Community Dev./Accomplishments

- Managed General Plan update
- Processed Lodi Shopping Center project
- Maintained stated plan-check goals 90% of the time
- Completed Cost Analysis Study, adopted new fee schedule
- Performed fire plan review in Community Development
- Assisted in transition from Urban County CDBG program
- Completed RFQ process for selection of Roget Park developer

FY 2009/10 Budget



Community Dev./ Emphasis

- New fee schedule to achieve 90% cost recovery
- Reduce need for outside professional services
- Teach code update classes for Building Industry Association and contractors
- Obtain HOME Program funding to maintain existing housing assistance programs
- Close out all CDBG projects funded through the Urban County Program
- Implement Neighborhood Stabilization Program

FY 2009/10 Budget



Community Development Block Grant Fund

FY 2009/10 budget	\$751,250
FY 2008/09 budget	\$461,100

FY 2009/10 Budget



Library

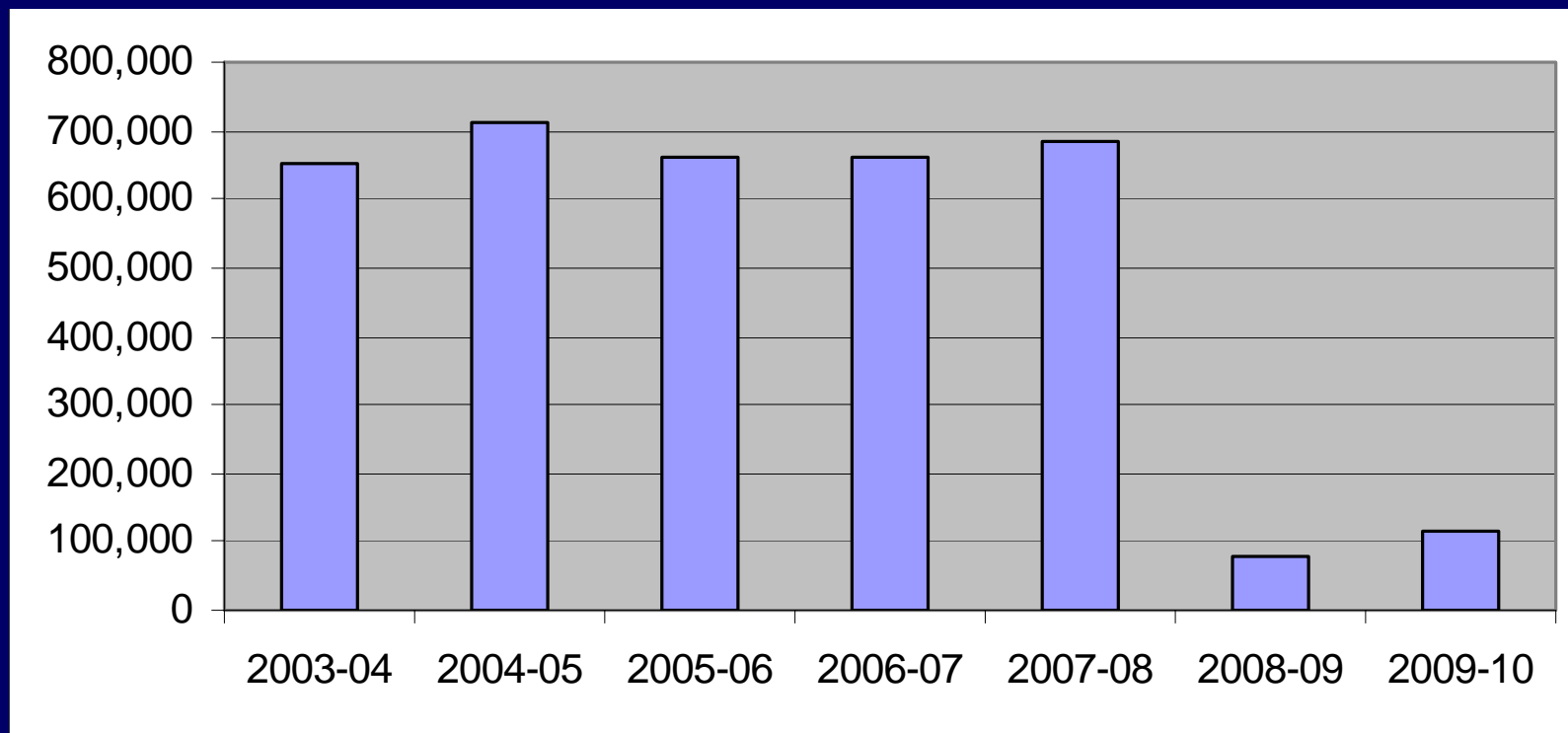
	Audited 2006-07 Actuals	Audited 2007-08 Actuals	2008-09 Budget	Estimated 2008-09 Actuals	2009-10 Budget
Library Fund					
<u>Fund Balance (Net Assets)</u>					
Beginning Fund Balance (Net Assets) Unreserved	659,023	659,572	659,885	685,687	79,758
Revenues	1,664,914	1,764,025	2,200,294	2,271,047	1,453,901
Expenditures	<u>1,664,365</u>	<u>1,737,910</u>	<u>2,826,159</u>	<u>2,876,976</u>	<u>1,419,910</u>
Net Difference (Revenues Less Expenditures)	549	26,115	(625,865)	(605,929)	33,991
<u>Fund Balance (Net Assets)</u>					
Ending Fund Balance (Net Assets) Unreserved	<u>659,572</u>	<u>685,687</u>	<u>34,020</u>	<u>79,758</u>	<u>113,749</u>

FY 2009/10 Budget



Library

Fund balance history



FY 2009/10 Budget



Library

FY 2009/10 budget	\$1,419,900
FY 2008/09 budget	\$2,826,200
Change	(\$1,406,300) -50%
General Fund support	\$1,352,026
Funded positions FY 09/10	12
Unfunded positions	2
Service adjustments: Less customer support, reduced public hours	

FY 2009/10 Budget



Library/Accomplishments

- Completed Phase I of Library Renovation Project
- Moved to temporary location
- Developed partnership with area schools to provide access to materials on school standardized reading lists
- Public survey to determine public interest, satisfaction and suggestions
- Began development of technology and strategic plans

FY 2009/10 Budget



Library/Emphasis

- Maintain commitment to reading, literacy and learning
- Use collection development, online assistance and volunteers to provide homework help
- Implement technology plan
- Work toward completion of Phase II renovation



MEMORANDUM

From *Blair King*, City Manager

City of Lodi - City Hall
221 W. Pine Street
Phone: (209) 333-6700
Fax: (209) 333-6807
Fax: (209) 333-6807

TO: Mayor and Council Members

DATE: May 20, 2009

SUBJECT: Downtown Lodi Business Partnership Funding FY 2009/10

During Fiscal Year 2008-09, Lodi provided \$34,000 in General Fund support for the Downtown Lodi Business Partnership (DLBP). The manager's recommended FY 2009/10 budget does not include any General Fund support for the DLBP.

During these difficult economic times, contract programs are subject to closer scrutiny. These same programs, during more robust economic times, would in all likelihood not be subject to the same critical eye. In brief, concerns with the DLBP center on the following issues:

- 1) **Economic viability and management practices** - In November, the DLBP Executive contacted the City to request an advance of funds. It was reported that the DLBP was out of money, the rent could not be paid, and the Executive would go without compensation. Information provided by the Executive painted a picture of an organization that was under-capitalized for the size of staff and the organization's administrative costs and on the verge of shutting its doors. Other issues related to management practices have been late annual budgets; unknown but perhaps inadequate, internal controls; and past difficulty in securing independent audits.
- 2) **Cost of staff and overhead disproportionate to direct cost of services** - Pursuant to the DLBP FY 2008/09 budget, the large promotional events such as the Farmers Market and the Parade of Lights are self-supporting and do not require General Fund support. It is assumed that General Fund support is provided for those activities that, according to the Lodi Municipal Code, meet the following criteria: "A" - Acquisition, construction, installation, or maintenance; or "B" - Promote shopping and promotions.

The following lists are all of the marketing and Downtown Beautification expenditures contained within the FY 08/09 DLBP budget:

Marketing –	
Merchant Brochure & Kiosk Map	\$2,500
Advertising & Promotions	6,100
Public Relations	2,500
Marketing Campaigns	2,000
Website	1,000
Subtotal	\$14,000
Downtown Beautification	\$5,000
 TOTAL	 \$19,000
 Residual for staff and overhead	 \$15,000 (44%)

The total of \$19,000 and \$15,000 equals the \$34,000 contributed. It is assumed that the marketing and Downtown Beautification expenditures have been made although verification has not been made or provided.

Alternatives – The City Council can, of course, direct that the budget include General Fund support of the DLBP. The Council may want to consider reducing funding by an amount equal to other economic development activities, or less. The Council may want to provide funding on a one-year “probationary” basis.

Downtown Lodi Business Partnership
Proposed Budget

July 1, 2008 through June 30, 2009

Income

Assessment Fees	42000.00
City of Lodi	35300.00
Event Revenue	
Farmers Market	65000.00
Parade of Lights	12500.00
Banner Sponsorship Program	5500.00
Grape Festival Youth Parade	1200.00
Fall Fest	3000.00
Winterfest	500.00
Miscellaneous Events & Sales	<u>10500.00</u>

Total Income

175500.00

Expenses

Event Expenses	
Farmers Market	30000.00
Parade of Lights	4500.00
Banner Sponsorship Program	1500.00
Grape Festival Youth Parade	500.00
Fall Fest	800.00
Winterfest	2000.00
Miscellaneous Events & Sales	1000.00
Marketing Expenses	
Merchant Brochure & Kiosk Map	2500.00
Advertising & Promotions	6100.00
Mileage & Meetings	2500.00
Public Relations	2500.00
Marketing Campaigns	2000.00
Seminars	1500.00
Website	1000.00
Membership Expenses	
Newsletters	600.00
Quarterly Mixers	500.00
Plaques & Trophies	500.00
Sunshine Committee	1000.00
Revitalization Expenses	
Downtown Beautification	5000.00

Administrative	
Salaries& Wages	65000.00
Payroll Taxes	5500.00
Contract Labor	2000.00
Insurance	11000.00
Professional Fees	2500.00
Rent	6000.00
Storage	2000.00
Office Supplies	6500.00
Office Equipment	1600.00
Bank Fees	400.00
Postage	1000.00
Utilities (phone, internet, etc.)	6000.00
Total Expenses	175500.00
Net Income	0.00

Title 12 STREETS, SIDEWALKS AND PUBLIC PLACES

Chapter 12.06 DOWNTOWN LODI BUSINESS IMPROVEMENT AREA NO. 1

12.06 010 Resolution of intention, public hearing and findings.

12 06 020 Definitions

12 06.030 Establishment of boundaries.

12 06 040 Establishment of area board of directors.

12.06 050 Establishment of benefit fee

12 06 060 Purpose and use of benefit fees.

12 06 070 Exclusions from benefit fees.

12 06 080 New business fee waiver

12 06 090 Collection of benefit fee-Enforcement.

12.06 100 Voluntary contributions to area.

12 06.110 Annual budget process

12 06.120 Decisions regarding-expenditure of funds.

12 06 130 Area proceeds do not offset city services

12.06.140 Public parking

12.06.150 Disestablishment of the area-

12.06.010 Resolution of intention, public hearing and findings.

The recitals hereof, which set forth facts regarding the adoption of council resolutions, the conduct of public hearings and certain findings of the city council, are true and correct and incorporated in this chapter by reference. (Ord. 1654 § 1 (part), 1997)

12.06.020 Definitions.

In order to distinguish between area businesses and for the purpose of calculating and applying the amount of benefit fees owed, the following definitions shall apply:

A. Billing Period. "Billing period" refers to the period beginning January 1st to and including December 31st of any year.

B. "Financial" means banks, savings and loans, credit unions, etc.

C. Lodging. "Lodging" businesses mean and include inns, hotels, motels, RV parks and other similar businesses.

D. Professional. "Professional" means and includes attorneys, architects, accountants, engineers,

surveyors, physicians, dentists, optometrists, chiropractors and others in a medical/health service field, consultants, real estate brokers, financial advisors, laboratories (including dental and optical), hearing aid services, artists and designers.

E. Restaurants. "Restaurant" businesses mean and include cafes, eating establishments, sandwich shops, dinner houses, restaurants and fast food services and other similar businesses.

F. Retail Businesses. "Retail businesses" means and includes all businesses not covered by other definitions set out in this section, at least fifty percent of whose gross income is derived from "retail sales" as that term is defined under the California Sales and Use Tax Law. The fact that a substantial part of its business consists of sales other than retail sales does not exclude such business from this classification so long as such other business component does not account for more than fifty percent of such business' gross income.

G. Service. "Service" businesses mean and include general office, news and advertising media, printers, photographers, personal care facilities and outlets, service stations, repairing and servicing businesses, renting and leasing businesses, utilities, vending machine businesses, household finance companies, entertainment businesses, theaters and other similar businesses not otherwise included in Types 1, 2, and 4, Section 12.06.050, or definitions B, C, D, E or F of this section. (Ord. 1654 § 1 (part), 1997)

12.06.030 Establishment of boundaries.

A parking and business improvement area is established pursuant to the Parking and Business improvement Area Law of 1989, Streets and Highways Code Section 36500 et seq. (the Act). The boundaries of the area and the benefit zones within the area shall be as set forth on Exhibit A, attached hereto and incorporated in this chapter by reference. This area shall be known as the "downtown Lodi business improvement area No. 1" (the "area"). (Ord. 1654 § 1 (part), 1997)

12.06.040 Establishment of area board of directors.

There shall be a board of directors ("board") of the area to administer the affairs of the area. The board shall be composed of no less than ten nor more than twenty-five member businesses of the area. The initial board shall be approved by the city council from a list of business operators located in the area that is submitted by the business improvement area formation committee. Within the board there shall be a president, vice-president, secretary and treasurer elected by the membership, and such other officers as deemed necessary by the board. Such other officers shall be appointed by the board of directors at their discretion. All voting within the area regarding election of board members and any actions regarding the normal and routine conducting of area business shall be based on one vote per benefit fee dollar, and such voting business must be current in payment of their area benefit fee(s) to participate in such votes. (Ord. 1654 § 1 (part), 1997)

12.06.050 Establishment of benefit fee.

All businesses, trades, and professions located within the area boundaries shown on Exhibit A attached to the ordinance codified in this chapter shall pay an annual benefit fee in such amounts as are established from time to time by city council resolution. (Ord. 1789 § 1, 2007)

12.06.060 Purpose and use of benefit fees.

The types of improvements and activities proposed to be funded by the benefit fee paid by businesses in the area are as follows:

A. Improvements including the acquisition, construction, installation or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following improvements:

1. Benches;
2. Trash receptacles;
3. Decorations;
4. Facade improvements;

5. Permanent landscaping.

B. Activities including but not limited to the following:

1. Promotion of public events which benefit businesses in the area and which take place on or in public places within the area;
2. Furnishing of music in any public place in the area;
3. Activities which benefit businesses located and operating in the area, including but not limited to downtown shopping and promotional programs. (Ord. 1654 § 1 (part), 1997)

12.06.070 Exclusions from benefit fees.

No person or business shall be required to pay a fee based on a residential use of the property within the area, or a nonprofit organization as defined by Section 501(c)(3) or 501(c)(6) of the Internal Revenue Service Code located within the area. (Ord. 1741 § 1, 2003)

12.06.080 New business fee waiver.

Any new business established within the area shall not be required to pay a fee for the billing period during which such business is initiated. The business will have been considered initiated on the date of issuance of the business license. This waiver shall not apply to an existing business that has changed ownership or location within the area. City agrees to supply the area board with timely information regarding new businesses initiated within the area. (Ord. 1654 § 1 (part), 1997)

12.06.090 Collection of benefit fee-Enforcement.

A. The benefit fee authorized by this chapter, for Lodi businesses (Section 12.06.050 hereof), shall be billed and collected once each year on January 1st and shall be delinquent on January 31st of each year. The city will bill and collect the fees, at no charge to the area, and forward all funds collected to the area within thirty days of such collections. Late payment penalties shall be applied to businesses that are delinquent at the rate of ten percent of the benefit fee per month on the first day of each month after the delinquency thereof; provided, however, the total amount of such penalty to be added shall, in no event, exceed one hundred percent of the amount of the benefit fee due. At such time as late payment penalties equate to thirty percent of the total annual fee, action shall be taken to recover such delinquent fees. Costs of this recovery shall be borne by the business owing the fee and late penalties.

B. The finance director shall diligently enforce the provisions of this chapter. For purposes of such enforcement, the finance director and the finance technicians (or equivalent position as it may be renamed from time to time) are "officers" who may issue citations to violators of this chapter pursuant to Chapter 1.08 of the Lodi Municipal Code.

C. Any person who violates any provision of this chapter is guilty of an infraction and is subject to punishment as provided in Chapter 1.08 of the Lodi Municipal Code. (Ord. 1741 § 2, 2003)

12.06.100 Voluntary contributions to area.

Contributions to the area and its board shall be permitted on a voluntary basis. The boundary of the area shall not be modified as a result of the contribution, nor shall such contributing business be considered a member of the area for voting or other purposes. However, such business making a voluntary contribution may be entitled to participate in the programs of the area upon a finding by the board of directors that the area derives a benefit from such business' participation in the program. (Ord. 1654 § 1 (part), 1997)

12.06.110 Annual budget process.

Pursuant to the Act, it shall be necessary for the board to present, by September 1st, an annual budget for city council review and approval prior to the beginning of any billing period. The

purpose of this process is to comply with the Act provisions regarding public notice and hearing prior to establishing the benefit fees for the following billing period. City shall not adopt, modify or otherwise amend any billing period budget of the area that is inconsistent in any way with such billing period's budget as agreed to and presented by the board except in the case of a written majority protest (regarding elimination or modification of any specific budget item) from business owners which will pay fifty percent or more of the fees proposed to be levied as to any specific budget item pursuant to Streets and Highways Code Section 36525(b). In such case the written protest regarding any specific budget item shall be grounds to eliminate or modify such expenditure from the area's proposed budget pursuant to the written protest. (Ord. 1654 § 1 (part), 1997)

12.06.120 Decisions regarding expenditure of funds.

As provided for within the guidelines of the Act, decisions of the board regarding expenditure of all funds generated under this program shall be final. (Ord. 1654 § 1 (part), 1997)

12.06.130 Area proceeds do not offset city services.

City specifically finds and declares that the funds derived from the area shall not be used to offset or diminish current maintenance, capital improvement programs, including but not limited to, public property and sidewalk cleaning, street cleaning and maintenance, tree maintenance, restroom cleaning and maintenance. The city declares its intent to provide at least the same level and standard of maintenance and repair of public property within the area providing city funds are available from year to year. (Ord. 1654 § 1 (part), 1997)

12.06.140 Public parking.

The proceeds of the benefit fees established hereunder shall not be used to acquire and/or construct additional public parking, unless such use of the funds is first approved by a majority vote of the area members voting. (Ord. 1654 § 1 (part), 1997)

12.06.150 Disestablishment of the area.

Proceedings to disestablish the area shall be initiated by the city council following the presentation of a petition to the city council signed by business owners paying fifty percent or more of the fees levied in the area. Proceedings to disestablish the area shall follow the procedures set forth in Streets and Highways Code Section 36550. The city council shall disestablish the area if, following the public hearing prescribed in Section 36550(b), written protests are not withdrawn so as to reduce the protests below the fifty percent level. In the event of disestablishment of the area, remaining revenues of the area maintained by the board shall be refunded to paying business owners in a pro-rata manner calculated in the same manner as was used to establish the most recent fees applied in the area. (Ord. 1654 § 1 (part), 1997)

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BYLAWS OF DOWNTOWN LODI BUSINESS PARTNERSHIP



(A California Mutual Benefit Corporation)

ARTICLE I ORGANIZATION AND PURPOSE

SECTION 1. 1: ORGANIZATION. The name of this corporation is the Downtown Lodi Business Partnership (hereinafter referred to as the "DLBP"). It is a non-profit, mutual benefit and Business Improvement District corporation organized under the California Non-Profit Mutual Benefit law.

SECTION 1. 2: PURPOSE. The particular purpose for which this organization was formed is to promote and improve the common business interests of business owners and merchants in Downtown Lodi, California, located within the area designated as the Lodi Downtown Business Improvement Area (hereafter referred to as the "BIA").

ARTICLE 2 OFFICES

SECTION 2. 1: PRINCIPAL OFFICE. The principal office for the transaction of the activities, affairs, and business of the corporation is located at 35 S. School Street, Lodi, San Joaquin County, California. The Board Directors ("Board") may change the principal office from one location to another within the area designated as BIA. Any change of location of the principal office shall be noted by the secretary on these bylaws opposite Section, or this Section may be amended to state the location.

ARTICLE 3 MEMBERS

SECTION 3. 1: QUALIFICATIONS. The Association shall have two classes of members: regular members and voluntary members.

- A. Regular Member. Any person owning a business (or their designated agent) in the Lodi Downtown BIA automatically is a regular member of the DLBP.
- B. Voluntary Member. Any other person owning a business and those non-business entities within and without the BIA's boundaries who wish to become members may do so upon approval of the Board by paying to the DLBP the dues for such member, which is to be

determined by the Board. Such voluntary payments to the DLBP must be made upon entry to the DLBP, and thereafter paid on an annual basis, with subsequent payments being due at the same time that Regular Member's fees are due under Lodi City Ordinance 1654, which establishes the BIA.

SECTION 3. 2. RIGHTS. Regular members, as defined in Section 3.1, in good standing may serve on the Board and its committees and are entitled to vote. Voluntary members are not entitled to vote but may speak at meetings and may serve on committees.

SECTION 3. 3: VOTING RIGHTS. All regular members in good standing, as set forth in Section 3.4 of these bylaws, shall have the right to vote on the election of directors, on the disposition of all or substantially all of the assets of the DLBP, on any merger and its principal terms and any amendment of those terms, and on any election to dissolve the corporation. In addition, all members shall have all rights afforded members under the California Nonprofit Mutual Benefit Corporation Law. If the DLBP is dissolved, all regular members shall receive a pro-rata distribution of all assets, exclusive of those held in charitable trust, remaining after payment or provision for payment of the obligations and debts of the DLBP and provision of any other payment required under applicable law.

SECTION 3. 4: GOOD STANDING. Those members who have paid their assessments under the BIA or the equivalent amount as provided in Section 3. 1, above, and who are not suspended shall be members in good standing.

SECTION 3. 5: TERMINATION/SUSPENSION OF MEMBERS. A membership shall terminate on occurrence of any of the following events:

- A. Voluntary Member
 - (1) Resignation, as reasonable.
 - (2) Failure of a voluntary member to pay their dues, or the equivalent amount to the DLBP after they become due 2nd payable.
 - (3) A voluntary member may be terminated/suspended based on the good

Meeting date shall be at least 35 but not more than 90 days after receipt of the request. If the notice is not given within 20 days after receipt of the request, the person or persons requesting the meeting may give the notice. Nothing in this Section shall be construed as limiting, changing, or affecting the time at which a meeting of members may be held when the meeting is called by the board.

No business, other than the business the general nature of which was set forth in the notice of the meeting, may be transacted at a special meeting.

SECTION 4.4: GENERAL NOTICE REQUIREMENTS FOR MEMBERS' MEETINGS. Whenever members are required or permitted to take any action at a meeting, written notice of the meeting shall be given, in accordance with Section 4.5 of these bylaws, to each member entitled to vote at that meeting. The notice shall specify the place, date and hour of the meeting, and, (1) for a special meeting, the general nature of the business to be transacted, and no other business may be transacted, or (2) for an annual meeting, those matters that the Board, at the time notice is given, intends to present for action by the members, except as provided in Section 4.5 of these bylaws, any proper matter may be presented at the meeting. The notice of any meeting at which directors are to be elected shall include the names of all persons who are nominees when notice is given.

SECTION 4.5: NOTICE OF CERTAIN AGENDA ITEMS. Approval by the members of any of the following proposals, other than by unanimous approval by those entitled to vote, is valid only if the notice or written waiver of notice states the general nature of the proposal or proposals:

- A. Removing a director without cause;
- B. Filling vacancies on the Board;
- C. Amending the articles of incorporation;
- D. Approving a contract or transaction between the DLBP and one or more directors, or between the DLBP and any entity in which a director has a material financial interest;
- E. Electing to wind up and dissolve the DLBP; or
- F. Approving a plan of distribution of assets, other than money, not in accordance with liquidation rights of any class or classes as

specified in the articles or bylaws, when the DLBP is in the process of winding up;

G. Amending the By-Laws.

SECTION 4.6: MANNER OF GIVING NOTICE. Notice of any meeting of members shall be in writing and shall be given at least 10 but no more than 90 days before the meeting date. The notice shall be given either personally, by FAX, or by first-class, registered, or certified mail, or by other means of written communication, charges prepaid, and shall be addressed to each member entitled to vote, at the address of that member appearing on the books of the DLBP or at the address given by the member to the DLBP for purposes of notice. If no address appears on the DLBP's books and no address has been so given, notice shall be deemed to have been given if either (1) notice is sent to that member by first-class mail or telegraphic or other written communication to the DLBP's principal office or (2) notice is published at least once in a newspaper of general circulation in the county in which the principal office is located.

SECTION 4.7: AFFIDAVIT OF NOTICE. An affidavit of the transmission by facsimile or mailing of any notice of any members' meeting, or of the giving of such notice by other means, may be executed by the secretary, assistant secretary, or any transfer agent of the DLBP, and if so executed, shall be filed and maintained in the DLBP's minute book.

SECTION 4.8: QUORUM. Fifteen (15) percent of the voting power shall constitute a quorum for the transaction of business at any meeting of members, provided, however, that if any regular or annual meeting is actually attended in person or by designated agent by less than one quarter of the voting power, the only matters that may be voted on are those of which notice of their general nature was given under Section 4.5 of these bylaws.

SECTION 4.9: LOSS OF QUORUM. Subject to Section 4.8 of these bylaws, the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment, even if members have withdrawn to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

SECTION 4.10: ADJOURNMENT AND NOTICE OF ADJOURNED MEETING. Any members' meeting, annual or special, whether or not a quorum is present, may be adjourned from time-to-time by the vote of a majority of the members represented at the meeting, but in the absence of a quorum no other business may be transacted

entitled to exercise any rights with respect to any other lawful action shall be the date on which the Board adopts the resolution relating to that action, or the 60th day before the date of that action, whichever is later.

ARTICLE 5 DIRECTORS

SECTION 5.1: GENERAL POWERS. Subject to the provisions and limitations of the California Nonprofit Mutual Benefit Corporation Law and any other applicable laws, and subject to any limitations in the articles of incorporation and bylaws regarding actions that require the approval of the members as to action which shall be authorized or approved by the members and subject to the duties of directors as prescribed by the bylaws, all corporate powers shall be exercised by or under the authority of, and the business and affairs of the DLBP shall be controlled by, the Board of Directors.

SECTION 5.2: SPECIFIC POWERS. Without prejudice to the general powers set forth in Section 5.1 of these bylaws, but subject to the same limitations, the directors shall have the power to:

- A. Appoint and remove at the pleasure of the Board all the DLBP's officers, agents, and employees; prescribe powers and duties for them that are consistent with the law, with the articles of incorporation, and with these bylaws; and fix their compensation and require from them security for faithful service.
- B. Change the principal office or the principal business office in Lodi, California from one location to another; cause the DLBP to be qualified to conduct its activities in any other state, territory, dependency, or country; conduct its activities within or outside Lodi, California; and designate any place within or outside Lodi, California for holding any meeting of members.
- C. Adopt and use a corporate seal; prescribe the forms of membership certificates consistent with the provisions of Section 7313 of the California Corporations Code; and alter the forms of the seal and certificates.
- D. Borrow money and incur indebtedness on behalf of the DLBP and cause to be executed and delivered for the DLBP's purposes, in the corporate name, promissory notes, bonds,

debentures, deeds of trust, mortgages, pledges, hypothecations, and other evidences of debt and securities.

- E. To appoint an executive committee and other committees as provided in Section 5.18, below, and to delegate to the executive committee any of the powers and authority of the board in the management of the business and affairs of the corporation, except the power to adopt, amend or repeal bylaws.

SECTION 5.3: NUMBER AND QUALIFICATION OF DIRECTORS. The authorized number of directors of the corporation shall be any number up to twenty-five (25) as set by the Board of Directors, unless changed by amendment of these bylaws. The qualification for directors are that they must be Regular members of the DLBP as provided in Section 3.1 of these bylaws, and in good standing.

SECTION 5.4: ELECTION AND TERM OF OFFICE. The term of office of the Board of Directors shall be three years. Six directors shall be elected at each annual meeting of members, but if any such annual meeting is not held, or the directors are not elected thereat, the directors may be elected at any special meeting of members held for that purpose. All directors, including a director elected to fill a vacancy or elected at a special members' meeting, shall hold office until expiration of the term for which elected and until a successor has been elected.

SECTION 5.5 VACANCIES. Vacancies in the Board may be filled by a vote of the majority of the directors then in office, or by a sole remaining director, and each director so elected shall hold office until his successor is elected at an annual or a special meeting of the members.

A vacancy or vacancies in the Board shall be deemed to exist in case of the death, resignation or removal of any director, or if the authorized number of directors is increased, or if the members fail at any annual or special meeting of members at which any director or directors are elected to elect the full authorized number of directors to be voted at that meeting. A director may be removed, at the discretion of the Board, if such director is not in attendance at any three consecutive regular meetings of the Board; provided, however, that if prior to the third such meeting such absent director delivers a written request to the Board, in care of any director present at such meeting, that the board may then excuse such absence.

The members may elect a director or directors at any time to fill any vacancy or vacancies not filled by the directors. If the Board accepts the resignation of a director tendered

SECTION 5. 16: ACTION WITHOUT MEETING. Any action that the Board is required or permitted to take may be taken without a meeting if all members of the Board consent in writing to that action. Such action by written consent shall have the same force and effect as any other validly approved action of the Board. All such consents shall be filed with the minutes of the proceedings of the Board.

SECTION 5. 17: FEES AND COMPENSATION. Directors may not receive compensation for their services. Directors may receive reimbursement of expenses, as may be determined by Board resolution to be just and reasonable as to the DLBP at the time the resolution is adopted.

SECTION 5. 18: COMMITTEES OF THE BOARD. The Board, by resolution adopted by a majority of the directors then in office, provided a quorum is present, may create one or more committees, each consisting of one or more directors and any regular or volunteer members who are not directors, to serve at the pleasure of the Board. Appointments to committees of the Board shall be by majority vote of the directors then in office. The Board may appoint one or more directors as alternate members of any such committee, who may replace any absent member at any meeting. Any such committee, to the extent provided in the Board resolution, shall have all the authority of the Board except that no committee, regardless of Board resolution, may:

- A. Take any final action on any matter that, under the California Nonprofit Mutual Benefit Corporation Law, also requires approval of the members or approval of a majority of all members;
- B. Fill vacancies on the Board or on any committee that has the authority of the Board;
- C. Fix compensation of the directors for serving on the Board or on any committee;
- D. Amend or repeal bylaws or adopt new bylaws;
- E. Amend or repeal any Board resolution that by its express terms is not so amendable or repealable;
- F. Create any other committees of the Board or appoint the members of committees of the Board;

- G. Expand corporate funds to support a nominee for director after more people have been nominated for director than can be elected; or
- H. With respect to any assets held in charitable trust, approve any contract or transaction between the DLBP and one or more of its directors or between the DLBP and an entity in which one or more of its directors have a material financial interest, subject to the special provisions of Section 5233(d)(3) of the California Corporations Code.

SECTION 5. 19: MEETINGS AND ACTION OF COMMITTEES. Meetings and action of committees of the Board shall be governed by, held, and taken in accordance with, the provisions of these bylaws concerning meetings and other Board actions except that the time for regular meetings of such committees and calling of special meetings of such committees may be determined either by Board resolution, or if there is none, by resolution of the committee. Minutes of each meeting of any committee of the Board shall be kept and shall be filed with the corporate records. The Board may adopt rules for the government of any committee that are consistent with these bylaws or, in the absence of rules adopted by the Board, the committee may adopt such rules.

ARTICLE 6 OFFICERS

SECTION 6. 1: OFFICERS. The officers of the corporation shall be a president, a first vice president, a second vice president, a secretary, and a chief financial officer and such other officers as may be appointed in accordance with the provisions of Section 6.3 of this article.

SECTION 6. 2: ELECTION. The officers of the DLBP, except such officers as may be appointed in accordance with the provisions of Section 6.3 or Section 6.5 of this article, shall be chosen annually, in accordance with Section 5.8 herein, by the Board and shall serve at the pleasure of the Board, subject to the rights, if any of any officer under any contract of employment. Each officer shall hold office until he or she shall resign or shall be removed or otherwise disqualified to serve, or his or her successor shall be elected and qualified.

SECTION 6. 3: OTHER OFFICERS. The Board may appoint such other officers as the business of the DLBP may require, each of whom shall hold office for such period, have such authority and perform such duties as are provided in the bylaws or as the Board may from time-to-time determine.

SECTION 7.2: CHECKS, DRAFTS. All checks, drafts, other orders for payment of money, notes, or other evidences of indebtedness, issued in the name of or payable to the DLBP, shall be signed or endorsed by such person or persons and in such manner as, from time-to-time, shall be determined by resolution of the Board.

SECTION 7.3: ANNUAL REPORT. The Board shall cause an annual report to be sent to the members not later than forty (40) days after the close of the fiscal or the calendar year in compliance with the provisions of Sections 17, et seq., of the California Corporations Code.

SECTION 7.4: EXECUTION OF CONTRACTS. Any contract may be entered into or any instrument may be executed in the name of and on behalf of the DLBP by the president and secretary. Subject to the foregoing, and except as in the bylaws otherwise provided, the Board may authorize any officer or officers, agent or agents, to enter into a contract or execute any instrument in the name of and on behalf of the DLBP, and such authority may be general or confined to specific instances; and unless so authorized by the Board, no officer, agent, or employee shall have any power or authority to bind the DLBP by any contract or engagement or to pledge its credit to render it liable for any purpose or to any amount.

SECTION 7.5: INSPECTION OF BYLAWS. The DLBP shall keep in its principal office for the transaction of business the original or a Copy of the articles of incorporation and bylaws as amended or otherwise altered, a true and correct copy, certified by the secretary, which shall be open to inspection by the members at all reasonable times during business hours.

SECTION 7.6: CONSTRUCTION AND DEFINITIONS. Unless the context otherwise requires, the general definitions, rules of construction, and definitions contained in the California Nonprofit Mutual Benefit Corporation Act shall govern the construction of these bylaws. Notwithstanding anything to the contrary, the word "person" shall include the feminine and neuter, the word "number" includes the plural and the plural number shall include the singular, and the term "person" includes both a legal entity and a natural person.

ARTICLE 8 AMENDMENTS

SECTION 8.1: AMENDMENTS. These bylaws may be amended by a two-thirds vote of members present and voting at any meeting of the DLBP, provided that the proposed amendment shall have been included in the notice of the meeting.

SECTION 8.2: PARLIAMENTARY AUTHORITY. The Rules in Roberts Rules of Order, newly revised, shall be the parliamentary authority governing the meetings of the DLBP, directors, and all committees, subject to the laws of the state, the articles of incorporation, these bylaws, and any special rules of order adopted by the DLBP.

CERTIFICATE OF SECRETARY

I certify that I am the duly elected and acting Secretary of the Downtown Lodi Business Partnership, a California nonprofit mutual benefit corporation, that the above bylaws, consisting of eleven (11) pages, are the bylaws of this corporation as adopted by the board of directors on May 27, 1998, and that they have not been amended or modified since that date.

Executed on May 27, 1998, at Lodi, California.


MARY BAGNELL
Secretary

STREETS AND HIGHWAYS CODE

SECTION 36500-36504

36500. This part shall be known and may be cited as the "Parking and Business Improvement Area Law of 1989."

36501. (a) The Legislature finds and declares that businesses located and operating within the business districts of this state's communities are economically disadvantaged, are underutilized, and are unable to attract customers due to inadequate facilities, services, and activities in the business districts.

(b) The Legislature also finds and declares that it is in the public interest to promote the economic revitalization and physical maintenance of the business districts of its cities in order to create jobs, attract new businesses, and prevent erosion of the business districts.

(c) The Legislature also finds that it is of particular local benefit to allow cities to fund property related improvements and activities through the levy of assessments upon the businesses which benefit from those improvements and activities.

(d) The Legislature also finds and declares that tourism is a large and growing contributor to California's economy, and that promotion of a city's or county's scenic, recreational, cultural, and other attractions as a tourist destination is an important public purpose.

(e) The Legislature also finds and declares that assessments levied for the purpose of providing improvements and promoting activities which benefit individual businesses may also benefit the property within the area directly or indirectly and that those assessments are not taxes for the general benefit of a city, but are assessments for the improvements and activities which confer special benefits upon the businesses for which the improvements and activities are provided.

36502. The purpose of this part is to recodify and supplant previously enacted provisions of law which authorize cities to levy assessments on businesses within a parking and business improvement area and to provide a uniform procedure to levy assessments for improvements and activities of businesses located and operating in a business district of a city. This part does not affect or limit any other provisions of Law authorizing or providing for the furnishing of improvements or activities or the raising of revenue for these purposes. In addition, this part is intended to provide a method for financing public programs to attract tourist visits to areas where tourism is economically important and desired.

36503. Any provision of this part which conflicts with any other provision of law shall prevail over the other provision of law.

36504. This part is intended to be construed liberally and, if any provision is held invalid, the remaining provisions shall remain in full force and effect. If the provisions of this part respecting the levying of assessments are held invalid in any area within which assessments have been levied pursuant to Chapter 3 (commencing with Section 36530), the assessments shall be reimposed in an identical amount and upon the same businesses as a matter of law and no lapse in the levy of any assessment shall be deemed to have occurred. Assessments levied under this part are not special taxes.

STREETS AND HIGHWAYS CODE

SECTION 36505-36513

36505. "Advisory board" means the advisory board or commission appointed by the city council pursuant to Section 36530.

36506. "Assessment" means a levy for the purpose of acquiring, constructing, installing, or maintaining improvements and promoting activities which will benefit the businesses located and operating within a parking and business improvement area.

36507. "Business" means all types of businesses and includes financial institutions and professions.

36508. "City" means a city, county, city and county, or an agency or entity created pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code, the public member agencies of which include only cities, counties, or a city and county.

36509. "City council" means the city council of a city or the board of supervisors of a county, or the agency, commission, or board created pursuant to a joint powers agreement and which is a city within the meaning of this part.

36510. "Improvement" means the acquisition, construction, installation, or maintenance of any tangible property with an estimated useful life of five years or more including, but not limited to, the following:

- (a) Parking facilities.
- (b) Benches.
- (c) Trash receptacles.
- (d) Street lighting.
- (e) Decorations.
- (f) Parks.
- (g) Fountains.

36511. "Parking and business improvement area," or "area," means an area designated as provided in this part.

3651.2. "Property" means real property situated within an area.

36513. "Activities" means, but is not limited to, all of the following:

- (a) Promotion of public events which benefit businesses in the area and which take place on or in public places within the area.
- (b) Furnishing of music in any public place in the area.
- (c) Promotion of tourism within the area.
- (d) Activities which benefit businesses located and operating in the area.

STREETS AND HIGHWAYS CODE

SECTION 36515

36515. Every improvement area established prior to January 1, 1990, pursuant to the Parking and Business Improvement Area Law of 1979 (former Part 6 (commencing with Section 36500) of this division) is hereby declared valid and effective and is unaffected by the repeal of that law, but is subject to Chapters 3 (commencing with Section 36530), 4 (commencing with Section 36540), and 5 (commencing with Section 36550) of this part rather than any provision of prior law.

STREETS AND HIGHWAYS CODE

SECTION 36520-36529

36520. A parking and business improvement area may be established as provided in this chapter.

36521. The city council may establish an area on its own initiative.

36521.5. A county may not form an area within the territorial jurisdiction of a city without the consent of the city council of that city. A city may not form an area within the unincorporated territory of a county, without the consent of the board of supervisors of that county. A city may not form an area within the territorial jurisdiction of another city without the consent of the city council of the other city.

36522. Proceedings to establish a parking and business improvement area shall be instituted by the adoption by the city council of a resolution of intention to establish the area. The resolution of intention shall do all of the following:

(a) State that a parking and business improvement area is proposed to be established pursuant to this chapter and describe the boundaries of the territory proposed to be included in the area and the boundaries of each separate benefit zone to be established within the area. The boundaries of the area may be described by reference to a map on file in the office of the clerk, showing the proposed area.

(b) State the name of the proposed area.

(c) State the type or types of improvements and activities proposed to be funded by the levy of assessments on businesses in the area. The resolution of intention shall specify any improvements to be acquired.

(d) State that, except where funds are otherwise available, an assessment will be levied annually to pay for all improvements and activities within the area.

(e) State the proposed method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business.

(f) State whether new businesses will be exempt from the levy of the assessment, pursuant to Section 36531.

(g) Fix a time and place for a public hearing on the establishment of the parking and business improvement area and the levy of assessments, which shall be held not less than 20 or more than 30 days after the adoption of the resolution of intention.

(h) State that at the hearing the testimony of all interested persons for or against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities will be heard. The notice shall also describe, in summary, the effect of protests made by business owners against the establishment of the area, the extent of the area, and the furnishing

of a specified type of improvement or activity, as provided in Section 36524.

36523. Notice of a public hearing held under Section 36524, 36541, 36542, or 36550 shall be given by both of the following:

(a) Publishing the resolution of intention in a newspaper of general circulation in the city once, for at least seven days before the public hearing.

(b) Mailing of a complete copy of the resolution of intention by first-class mail to each business owner in the area within seven days of the city council's adoption of the resolution of intention.

(c) Notwithstanding subdivision (b), in the case of an area established primarily to promote tourism, a copy of the resolution of intention shall be mailed by first-class mail within seven days of the city council's adoption of the resolution of intention, to the owner of each business in the area which will be subject to assessment.

36523.5. Notwithstanding Section 36523, prior to adopting any new or increased assessment, the city council shall give notice pursuant to Section 54954.6 of the Government Code in lieu of publishing notice pursuant to subdivision (a) of Section 36523.

36524. (a) At the public hearing, the city council shall hear and consider all protests against the establishment of the area, the extent of the area, or the furnishing of specified types of improvements or activities within the area. A protest may be made orally or in writing by any interested person. Any protest pertaining to the regularity or sufficiency of the proceedings shall be in writing and shall clearly set forth the irregularity or defect to which the objection is made.

(b) Every written protest shall be filed with the clerk at or before the time fixed for the public hearing. The city council may waive any irregularity in the form or content of any written protest and at the public hearing may correct minor defects in the proceedings. A written protest may be withdrawn in writing at any time before the conclusion of the public hearing.

(c) Each written protest shall contain a description of the business in which the person subscribing the protest is interested sufficient to identify the business and, if a person subscribing is not shown on the official records of the city as the owner of the business, the protest shall contain or be accompanied by written evidence that the person subscribing is the owner of the business. A written protest which does not comply with this section shall not be counted in determining a majority protest.

36525. (a) If written protests are received from the owners of businesses in the proposed area which will pay 50 percent or more of the assessments proposed to be levied and protests are not withdrawn so as to reduce the protests to less than that 50 percent, no further proceedings to create the specified parking and business improvement area or to levy the proposed assessment, as contained in the

resolution of intention, shall be taken for a period of one year from the date of the finding of a majority protest by the city council.

(b) If the majority protest is only against the furnishing of a specified type or types of improvement or activity within the area, those types of improvements or activities shall be eliminated.

36526. (a) At the conclusion of the public hearing to establish the area, the city council may adopt, revise, change, reduce, or modify the proposed assessment or the type or types of improvements and activities to be funded with the revenues from the assessments.

(b) At the public hearing, the city council may only make changes in, to, or from, the boundaries of the proposed parking and business improvement area that will exclude territory which will not benefit from the proposed improvements or activities. However, proposed assessments may only be revised by reducing any or all of them.

(c) The city council shall not change the boundaries of the area to include any territory that will not, in its judgment, benefit by the improvement or activity. Any addition of territory to the proposed boundaries of the area may be made only upon notice to the owners of the businesses proposed to be added to the area, as provided in Section 36523, and upon a public hearing on the addition of territory, as provided in Section 36524.

36527. If the city council, following the public hearing, decides to establish the proposed parking and business improvement area, it shall adopt an ordinance to that effect. The ordinance shall contain all of the following:

(a) The number, date of adoption, and title of the resolution of intention.

(b) The time and place where the public hearing was held concerning the establishment of the area.

(c) A determination regarding any protests received at the public hearing.

(d) The description of the boundaries of the area and of each separate benefit zone established within the area.

(e) A statement that a parking and business improvement area has been established and the name of the area.

(f) A statement that the businesses in the area established by the ordinance shall be subject to any amendments to this part.

(g) The description of the method and basis of levying the assessments, with a breakdown by classification of businesses if a classification is used.

(h) A statement that the improvements and activities to be provided in the area will be funded by the levy of the assessments. The revenue from the levy of assessments within an area shall not be used to provide improvements or activities outside the area or for any purpose other than the purposes specified in the resolution of intention, as modified by the city council at the hearing concerning establishment of the area.

(i) A finding that the businesses and the property within the business and improvement area will be benefited by the improvements and activities funded by the assessments proposed to be levied. In the case of an area formed to promote tourism, only businesses that benefit from tourist visits may be assessed.

(j) The time and manner of collecting the assessments.

36528. The city council may establish one or more separate benefit zones within the area based upon the degree of benefit derived from the improvements or activities to be provided within the benefit zone and may impose a different assessment within each benefit zone.

36529. All provisions of this part applicable to the establishment, modification, or disestablishment of a parking and business improvement area apply to the establishment, modification, or disestablishment of benefit zones. The city council shall, to establish, modify, or disestablish a benefit zone, follow the procedure to establish, modify, or disestablish a parking and business improvement area.

STREETS AND HIGHWAYS CODE

SECTION 36530-36537

36530. The city council shall appoint an advisory board which shall make a recommendation to the city council on the expenditure of revenues derived from the levy of assessments pursuant to this part, on the classification of businesses, as applicable, and on the method and basis of levying the assessments. The city council may designate existing advisory boards or commissions to serve as the advisory board for the area or may create a new advisory board for that purpose. The city council may limit membership of the advisory board to persons paying the assessments under this part. The city council may appoint the advisory board prior to adoption of the resolution of intention to create the area, so that the advisory board may recommend the provisions of the resolution of intention.

36531. The city council may exempt a business recently established in the area from the levy of the assessments, for a period not to exceed one year from the date the business commenced operating in the area. The city council shall state its determination to so exempt new businesses in the resolution of intention to establish the area and shall reaffirm its determination annually in the resolution of intention required to be adopted pursuant to Section 36534.

36532. The collection of the assessments levied pursuant to this part shall be made at the time and in the manner set forth by the city council in the ordinance establishing the area.

36533. (a) The advisory board shall cause to be prepared a report for each fiscal year for which assessments are to be levied and collected to pay the costs of the improvements and activities described in the report. The report may propose changes, including, but not limited to, the boundaries of the parking and business improvement area or any benefit zones within the area, the basis and method of levying the assessments, and any changes in the classification of businesses, if a classification is used.

(b) The report shall be filed with the clerk and shall refer to the parking and business improvement area by name, specify the fiscal year to which the report applies, and, with respect to that fiscal year, shall contain all of the following:

- (1) Any proposed changes in the boundaries of the parking and business improvement area or in any benefit zones within the area.
- (2) The improvements and activities to be provided for that fiscal year.
- (3) An estimate of the cost of providing the improvements and the activities for that fiscal year.
- (4) The method and basis of levying the assessment in sufficient detail to allow each business owner to estimate the amount of the assessment to be levied against his or her business for that fiscal year.

(5) The amount of any surplus or deficit revenues to be carried over from a previous fiscal year.

(6) The amount of any contributions to be made from sources other than assessments levied pursuant to this part.

(c) The city council may approve the report as filed by the advisory board or may modify any particular contained in the report and approve it as modified. The city council shall not approve a change in the basis and method of levying assessments that would impair an authorized or executed contract to be paid from the revenues derived from the levy of assessments.

36534. (a) After the approval of the report, the city council shall adopt a resolution of intention to levy an annual assessment for that fiscal year. The resolution of intention shall do all of the following:

(1) Declare the intention of the city council to change the boundaries of the parking and business improvement area, or in any benefit zone within the area, if the report filed pursuant to Section 36533 proposes a change.

(2) Declare the intention of the city council to levy and collect assessments within the parking and business improvement area for the fiscal year stated in the resolution.

(3) Generally describe the proposed improvements and activities authorized by the ordinance enacted pursuant to Section 36527 and any substantial changes proposed to be made to the improvements and activities.

(4) Refer to the parking and business improvement area by name and indicate the location of the area.

(5) Refer to the report on file with the clerk for a full and detailed description of the improvements and activities to be provided for that fiscal year, the boundaries of the area and any benefit zones within the area, and the proposed assessments to be levied upon the businesses within the area for that fiscal year.

(6) Fix a time and place for a public hearing to be held by the city council on the levy of the proposed assessment for that fiscal year. The public hearing shall be held not less than 10 days after the adoption of the resolution of intention.

(7) State that at the public hearing written and oral protests may be made. The form and manner of protests shall comply with Sections 36524 and 36525.

(b) The clerk shall give notice of the public hearing by causing the resolution of intention to be published once in a newspaper of general circulation in the city not less than seven days before the public hearing.

36535. (a) The city council shall hold the public hearing at the time and in the place specified in the resolution of intention. The public hearing shall be conducted as provided in Sections 36524 and 36525. The city council may continue the public hearing from time to time, but the public hearing shall be completed within 30 days.

(b) During the course or upon the conclusion of the public hearing, the city council may order changes in any of the matters provided in the report, including changes in the proposed assessments, the proposed improvements and activities to be funded with the revenues derived from the levy of the assessments, and the proposed boundaries of the area and any benefit zones within the area. The city council shall not change the boundaries to include

any territory that will not, in its judgment, benefit by the improvement or activity.

(c) At the conclusion of the public hearing, the city council may adopt a resolution confirming the report as originally filed or as changed by it. The adoption of the resolution shall constitute the levy of an assessment for the fiscal year referred to in the report.

(d) Notwithstanding subdivision (c), if the primary purpose of the area is promotion of tourism, the city council may adopt a resolution confirming the report as submitted by the advisory board, or may adopt a resolution continuing the program and assessments as levied in the then current year without change, and that resolution shall constitute the levy of an assessment for the fiscal year referred to in the report. As an alternative, the city council may modify the report and adopt a resolution confirming the report as modified, but in that case the city council may adopt the resolution only after providing notice of the proposed changes as specified in Section 36523 and only after conducting a public hearing on the resolution as provided in Sections 36524 and 36525.

36536. The assessments levied on businesses pursuant to this part shall be levied on the basis of the estimated benefit to the businesses and property within the parking and business improvement area. The city council may classify businesses for purposes of determining the benefit to a business of the improvements and activities provided pursuant to this part.

36537. The validity of an assessment levied under this part shall not be contested in any action or proceeding unless the action or proceeding is commenced within 30 days after the resolution levying the assessment is adopted pursuant to Section 36535. Any appeal from a final judgment in an action or proceeding shall be perfected within 30 days after the entry of judgment.

STREETS AND HIGHWAYS CODE

SECTION 36540-36542

36540. In addition to the changes authorized to be made in the annual report filed with the city council pursuant to Section 36533 or at the conclusion of the public hearing on the annual levy of the assessments, the advisory board may, at any time, recommend that the city council modify the boundaries of the area, any benefit zones within the area, the basis and method of levying the assessments, and any improvements or activities to be funded with the revenues derived from the levy of the assessments. Any modification shall be made pursuant to this chapter.

36541. (a) The city council shall modify the basis and method of levying the assessment or the boundaries of the area by adopting an ordinance after holding a public hearing on the proposed modification.

(b) The city council shall adopt a resolution of intention which states the proposed modification prior to the public hearing required by this section. The public hearing shall be held not less than 20 or more than 30 days after the adoption of the resolution of intention. Notice of the public hearing shall be published and shall be mailed to each owner of a business affected by the proposed modification, as provided in Section 36523. The public hearing shall be conducted as provided in Sections 36524 and 36525.

36542. (a) The city council may modify the improvements and activities to be funded with the revenue derived from the levy of the assessments by adopting a resolution determining to make the modifications after holding a public hearing on the proposed modifications. Notice of the public hearing and the proposed modifications shall be published as provided in Section 36523.

(b) The public hearing shall be conducted as provided in Sections 36524 and 36525.

STREETS AND HIGHWAYS CODE

SECTION 36550-36551

36550. (a) The city council may disestablish an area by adopting an ordinance after holding a public hearing on the disestablishment, as provided in this section.

(b) The city council shall adopt a resolution of intention to disestablish the area prior to the public hearing required by this section. The resolution shall state *the* reason for the disestablishment, shall state the time and place of the public hearing, and shall contain a proposal to dispose of any assets acquired with the revenues of the assessments levied within the parking and business improvement area. The public hearing shall be held not less than 20 or more than 30 days after the adoption of the resolution of intention. Notice of the public hearing shall be published as provided in Section 36523.

36551. (a) Upon the disestablishment of an area, any remaining revenues derived from the levy of assessments, or any revenues derived from the sale of assets acquired with the revenues, shall be refunded to the owners of the businesses then located and operating within the area in which assessments were levied by applying the same method and basis that was used to calculate the assessments levied in the fiscal year in which the area is disestablished.

(b) If the disestablishment occurs before an assessment is levied for the fiscal year, the method and basis that was used to calculate the assessments levied in the immediate prior fiscal year shall be used to calculate the amount of any refund. Notice of the disestablishment of an area shall be published once in a newspaper of general circulation in the city, not later than 15 days after the ordinance disestablishing the area is adopted.
